

United States
Circuit Court of Appeals
For the Ninth Circuit.

Apostles.

The British Ship "CELTIC CHIEF," Her Tackle, etc., and
JOHN HENRY, Master and Claimant Thereof,
Appellants,

vs.

INTER-ISLAND STEAM NAVIGATION COMPANY, LIM-
ITED, an Hawaiian Corporation, Owner of the Steamers
"HELENE," "MIKAHALA," "LIKELIKE," and
"MAUNA KEA," for Itself, the Officers and Crews of
Said Steamers and Other Servants of Said Owners,
Appellee.

The British Ship "CELTIC CHIEF," Her Tackle, etc., and
JOHN HENRY, Master and Claimant, Thereof,
Appellants,

vs.

MILLER SALVAGE COMPANY, LIMITED, a Corporation,
Appellee.
and

The British Ship "CELTIC CHIEF," Her Tackle, etc., and
JOHN HENRY, Master and Claimant Thereof,
Appellants,

vs.

MATSON NAVIGATION COMPANY, a California Corpora-
tion, Owner of the Tug "INTREPID," for Itself and the
Officers and Crew of Said Tug,

Appellee.

VOLUME IV.
(Pages 1249 to 1664, Inclusive.)

Upon Appeals from the United States District Court
for the Territory of Hawaii.

Filed

JUL 24 1914

D. Monckton,

CLERK.

United States
Circuit Court of Appeals
For the Ninth Circuit.

Apostles.

The British Ship "CELTIC CHIEF," Her Tackle, etc., and
JOHN HENRY, Master and Claimant Thereof,
Appellants,

vs.

INTER-ISLAND STEAM NAVIGATION COMPANY, LIMITED, an Hawaiian Corporation, Owner of the Steamers "HELENE," "MIKAHALA," "LIKELIKE," and "MAUNA KEA," for Itself, the Officers and Crews of Said Steamers and Other Servants of Said Owners,
Appellee,

The British Ship "CELTIC CHIEF," Her Tackle, etc., and
JOHN HENRY, Master and Claimant, Thereof,
Appellants,

vs.

MILLER SALVAGE COMPANY, LIMITED, a Corporation,
Appellee,

and

The British Ship "CELTIC CHIEF," Her Tackle, etc., and
JOHN HENRY, Master and Claimant Thereof,
Appellants,

vs.

MATSON NAVIGATION COMPANY, a California Corporation, Owner of the Tug "INTREPID," for Itself and the Officers and Crew of Said Tug,
Appellee.

VOLUME IV.
(Pages 1249 to 1664, Inclusive.)

Upon Appeals from the United States District Court
for the Territory of Hawaii.

(Testimony of Moses Kakai Ekau.)

Q. What time was it that you tried to run the surf line on the "Celtic Chief," Tuesday night?

A. It was evening.

Q. It wasn't dark night?

A. Ain't very dark. The sun was set.

Q. The sun was just setting, wasn't it?

A. The sun was set.

Q. About six o'clock? A. Very little after.

Q. Maybe little bit after maybe little before.

A. Little bit after.

Q. But the sun was just setting?

A. The sun was setting.

Q. Was it just setting? A. The sun was set.

Q. But it was still quite light?

A. Yes, still quite light.

Q. You could very well see what you were doing around there? A. Yes.

Q. There would have been no trouble in running an anchor that night? A. No.

Q. It would have been easy to lay that anchor that night? A. Yes.

Q. And you could have got the surf line on?

A. Yes.

Q. And you could pull the anchor line, the hawser on board the "Celtic Chief" that night?

A. We could do that Tuesday [1557—722] night without trouble.

Q. But you waited until next morning, Wednesday morning, to do that? A. Yes.

Q. Now, you say that you began heaving in first on the tackles with the capstan Tuesday afternoon—I mean Wednesday afternoon? A. Yes.

(Testimony of Moses Kakai Ekau.)

Q. Wednesday afternoon? A. Yes.

Q. Now, that's right, isn't it? A. Yes.

Q. And you worked there. All of you men worked, Tom Mason and the rest? You worked pretty late because you didn't have any time to get dinner, didn't you? A. Yes.

Q. You were busy getting the tackles fixed up and everything rigged? A. Yes.

Q. And when you get all through you hove them taut and then the boys went and had some lunch?

A. Yes.

Q. That was just a short time before sundown?

A. Before sunset.

Q. Oh, just a little before.

A. No, about an hour.

Q. Just about an hour before sunset, that was when you got the capstan working and got the line hove taut? A. Yes.

Q. That was about an hour before sunset on Wednesday? A. Yes.

Q. And then they kept it that way until you felt this first movement, the dragging of the "Celtic Chief"? A. Yes.

Q. Wednesday night? A. Wednesday night.

Q. That's right, is it? A. Yes.

Q. Now, when you first got this hove taut, you say you took in all the slack, didn't you? [1558—723]

A. Yes.

Q. And then you got her taut? A. Yes.

Q. And then some men were kept on that capstan to hold it in position? A. Yes.

(Testimony of Moses Kakai Ekau.)

Q. They couldn't do any pulling after that with the capstan?

A. They can't do nothing unless some slack, unless when they try to push them bars they find there's some slack coming in.

Q. Till they got the slack in?

A. Till the line taut. Every time little slack they can heave and stop every time they take it in.

Q. They did that first when they tried the tackles on Wednesday afternoon just about an hour before sunset? They took in the slack?

A. They took in the slack.

Q. Then they got it taut? A. Yes.

Q. Then they held it there?

A. They tried after little bit.

Q. Was there any slack until the time you felt the vessel drag? A. Not very much.

Q. Most of the time they were holding it?

A. Yes, ma'am. Keeping there to the time the time the boat coming out. The couldn't heave that capstan very much at all.

Q. Now, then, do you remember about what time it was that the "Celtic Chief" came off Wednesday night? A. Sometime—

Q. Eleven or twelve o'clock?

A. Between one and two, if I don't mistake.

Q. Well, it was morning, any way? A. Yes.

Q. And you felt this first jump or drag of the "Celtic Chief" about an hour, about an hour or so before?

A. About a couple of hours. That was when the first time that there was any slack for them to get in

(Testimony of Moses Kakai Ekau.)

with the [1559—724] capstan after they got it taut Wednesday afternoon.

Q. That was really the first time when they were able to get any slack?

A. They take in the slack when they could and the slack come in. They taking all the time.

Q. There was still some slack there?

A. The first time?

Q. The first time that she jumped?

A. Yes, the first time.

Q. Before that time the vessel hadn't moved off?

A. We still heaving in.

Q. But there wasn't any slack then?

A. No slack the first time before sunset.

Q. That's getting into position to get things ready?

A. That's getting into position to get things ready.

Q. Between those two times there hadn't been any slack?

A. Yes, we taking in slack every time, taking little by little.

Q. Well, was the vessel moving?

A. The vessel sounded, but we didn't know if moving or not.

Q. Wasn't it really the fact that between the time that you first got it tight Wednesday afternoon, just before sunset, and then from then on to the time she jumped this time, between those times, there were five or six hours? Weren't there five or six hours between the time that you felt it first time and time she jumped Wednesday night? Several hours?

A. Yes.

Q. Isn't that right? A. Yes.

(Testimony of Moses Kakai Ekau.)

Q. You didn't feel any movement of the "Celtic Chief" between those times? A. No.

Q. There wasn't very much slack that anybody got in, was there? A. No.

Q. So that the capstan wasn't moving very much? [1560—725] A. Not moving very much.

Q. Very little? A. 'Very little.

Q. All of the men were working holding most of the time? A. Most of the time.

Q. How many bars are there in that capstan?

A. I forget how many bars. I can't tell.

Q. Let me refresh your memory a little bit. Weren't there about eight bars?

A. I think about that. As far as I know, ten men.

Q. That is part of the men kept on the capstan all the time?

A. Yes, because we were working them all the time.

Q. Were there more than one man to the bar, couple of men?

A. Couple of men to the bar? If I don't mistake there's three men on some bars.

Q. One or two men on some others? A. Yes.

Q. And you think there were about ten men most of the time? A. Yes.

Q. Did you notice how many there were on that at the time the "Celtic Chief" came off?

A. Plenty men that time.

Q. Ten or fifteen?

A. I can't make out how many men.

Q. Would you think as many as fifteen?

A. I think it's more than that.

(Testimony of Moses Kakai Ekau.)

Q. Fifteen or twenty? A. I don't know.

Q. You don't know?

A. As far as I know myself and the ten men on capstan, Tom Mason, and the boss and some other men beside, I can't remember.

Q. Very likely to be from ten to twenty?

A. Somewhere between that.

Q. Somewhere between ten and twenty; is that right? A. Something between that.

Q. Tom Mason and the boss. That's Dick Clarke, was it? A. Yes. [1561—726]

Q. And you? A. Yes.

Q. Were you working the capstan, too?

A. I working part of the time on the capstan and run around the deck to look the tackle.

Q. Tom Mason was there when that first jump happened, was he? A. He was on the poop.

Q. What did he do?

A. He was watching the line.

Q. Did he see the line go slack?

A. Yes, he could tell when the ship went out.

Q. Did he say so?

A. He called out—he says, "Heave it in," and the line was taut that time, the first time, because we keep taut all the time. When he said, "Heave in," the boys start to heave in and they start to holler, "She's coming off."

Q. That was the last time?

A. That was the last time.

Q. I mean the first time. Did Mason see that?

A. Yes, he was there.

(Testimony of Moses Kakai Ekau.)

Q. He saw it? A. He saw that.

Q. Where was he?

A. On the poop, because the line comes up on the poop.

Q. Did he call out that time?

A. When the slack?

Q. The second time, the first time?

A. I didn't hear what he called. I don't remember.

Q. Do you know whether he saw?

A. He saw that, but he didn't call.

Q. You do know Mason was on the poop?

A. He was there because I was on the main hatch.

Q. Don't you know that Mason was down there watching the tackles and doing some fleeting of the tackles? A. What?

Q. Don't you know that Mason had just gone forward on the poop, on the main deck, back where the last blocks were to fleet them?

A. Sometimes he come up there, [1561½—727] sometime he don't.

Q. Don't you know that he was down on the main deck ready to do some fleeting when the "Celtic Chief" came off? A. He was down there.

Q. Then he wasn't on the poop?

A. Most of the time on the poop.

Q. What was he doing up there?

A. He was up there watching the line.

Q. He wasn't working, then?

A. He wasn't working; he watching the line.

Q. Wasn't he down around the tackles most of the time, anywhere from the bow of the vessel back

(Testimony of Moses Kakai Ekau.)

to the last blocks?

A. He was down there sometime.

Q. Wasn't he there most of the time?

A. Most of the time, sometime.

Q. Wasn't he there most of the time?

A. Not really most, but sometime.

Q. Did you feel any bumping of the "Celtic Chief" before this first jump that you talk about? This is the first time that you felt this dragging of the "Celtic Chief"? Did you feel her bumping before that? A. The same time.

Q. Oh, that time. Was that the first time you felt any motion? A. Before that?

Q. Yes. A. The boat come up and down again.

Q. When was that?

A. That's before we get, when we get on the boat and fix everything.

Q. Monday? A. Yes, Monday.

Q. When you were discharging cargo?

A. Yes, we could hear that.

Q. But you didn't feel any of that on Wednesday?

A. We feel that sound kind of drag.

Q. I'm not asking you about that time. I say before that. That was about ten or eleven o'clock?

A. Yes, sir. [1562—728]

Q. I'm asking you before that time.

A. Yes, I feel it.

Q. When?

A. That afternoon, we fixing that tackle.

Q. She'd bump up and down?

A. She bumping up and down when the tide come up.

(Testimony of Moses Kakai Ekau.)

Q. Now, that was before you got the Miller tackle in shape and got it taut? A. Yes.

Q. After that she didn't bump any, did she?

A. No, she didn't bump like before.

Q. After they got the Miller line attached then she didn't bump until this first drag? A. Yes.

Q. Between those two times she didn't bump at all? A. No.

Q. No motion at all? A. No.

Q. Now, there was no dragging before the first bump, was there? That first jump that she made? No dragging between an hour before sundown and the time she gave this jump that you *you* spoke of?

A. I can't feel any dragging that time.

Q. You didn't feel anything at all in between them? Now, isn't it the fact that this time that you first felt her drag, Wednesday night, she came quite quickly quite a distance and then stopped?

A. The first drag I feel was those kind.

Q. You felt it drag along the bottom?

A. Drag along.

Q. And the tackles drop down?

A. Drop down and we keep heaving in.

Q. And you hove in? A. Yes.

Q. And it was all over?

A. No, after that time, the first drop down then he stopped.

Q. Then she stopped? A. Yes. [1563—729]

Q. Right then? A. Yes.

Q. And she didn't do anything more until she came off?

A. No, then we heave in our tackles. They were

(Testimony of Moses Kakai Ekau.)

getting taut again; when that tackle taut again we keep on heaving, then she makes the second jump.

Q. Then about an hour later then second jump came and she came off? A. Came off.

Q. That's right now, is it? A. Yes.

Q. You wouldn't look at what the steamers were doing? A. No, I didn't.

Q. You didn't know at all what they were doing?

A. I only see the "Mikahala."

Q. You don't know what the "Arcona" was doing? A. No.

Q. Had no notion? A. I don't know.

Q. Didn't look over the sides of the vessel?

A. No.

Mr. OLSON.—That's all.

Cross-examination of MOSES KAKAI EKAU on
Behalf of Libelants Inter-Island Steam Navigation Co. and Matson Navigation Company.

Mr. WARREN.—Q. Do you know what steamers were pulling on the "Celtic Chief" Wednesday night? A. What?

Q. What steamers were pulling on the "Celtic Chief" Wednesday night?

A. I said before that "Arcona," the "Mikahala," the "Likelike," but I forget the other one.

Q. "Helene"?

A. I think it's the "Helene." I forget it. That's the boat, I remember.

Q. What?

A. That's the boat I remember. The "Mikahala," and the "Arcona," and the "Likelike."

Q. Was there another?

(Testimony of Moses Kakai Ekau.)

A. There was two other boat, but I forget their names. I didn't take very much, pay [1564—730] attention while I was working, looking this boats.

Q. You didn't pay any attention to any of the vessels that were out astern of the "Celtic Chief"?

A. No.

Q. You really didn't pay much attention to the "Mikahala"?

A. Yes, because it is fast to me.

Q. Fast to you?

A. The line on fast to the boat.

Q. Where were they working?

A. On the right-hand side.

Q. On the Waikiki side?

A. Waikiki.

Q. Did you go up on the poop at any time?

A. No.

Q. You didn't go on the poop at all?

A. I just go on the forecastle where the capstan is.

Q. Didn't go back to get up on the poop of the "Celtic Chief"?

A. Not while I was heaving.

Q. Did you go up there at all late Wednesday afternoon or night?

A. In the afternoon I go up there.

Q. What time in the afternoon?

A. I don't know.

Q. Before dark?

A. Before dark while we was fixing the tackle.

Q. That was before you got the Miller line taut?

A. Yes.

Q. After you got the Miller line taut, you didn't go up there?

A. No.

Q. And all that you could observe of the vessels in the neighborhood was from the Waikiki side of the "Celtic Chief"?

A. Yes.

(Testimony of Moses Kakai Ekau.)

Q. And the "Mikahala" was the only one you could see?

A. Only the "Mikahala" the one I could see. It was right in front of my face when I was looking.

Q. How was it, then, that you told us that the Miller anchor line [1565—731] was taut Wednesday night when they were heaving?

A. I could see because the ye of that hawse line was inside near where I was standing.

Q. The what?

A. The place where we shackled the main block of ours to that hawse line was inside.

Q. Inside how. Forward of the poop?

A. Forward of the poop.

Q. That's the only part of the Miller line that you saw?

A. That's the only part I saw and the tackle was taut up. That's how I could tell.

Q. If the line was slack it would be down on the deck? A. Yes.

Q. How many times did it go down on the deck slack? A. I seen twice.

Q. Now, when you speak of taking up slack, every time that there was some slack they would take a turn on the capstan. That slack was such as was shown on the portion of the anchor line forward of the poop? A. Forward of the poop.

Q. That's where you would see the slack?

A. Yes.

Q. Could you see any slack in the ropes of your different blocks and tackles?

A. I could see every tackle was slack when they

(Testimony of Moses Kakai Ekau.)

take in because in the moment when they heave in I found out that was slack coming. That's how the tackles come.

Q. Whenever you saw any slack there would be the falling of the Miller line and tackle as you could see them and they would come up straight again?

A. Get them taut.

Q. Could you judge that there was slack to be taken up every time the line would sink a little bit from the deck of the "Celtic Chief"?

A. Yes, when the line all tackle would slacken in.

Q. All right. Watch for some sign of the line being slack, [1566—732] then you take another turn, pick up that slack?

A. I was watching the block because the end of the other tackles was up in the capstan. There was a different man there to take these slacks in.

Q. You were watching for slack?

A. Watching the block.

Q. As soon as you saw the blocks come down little bit then they pulled in again?

A. They pulled in; yes.

Q. And those blocks were down twice, I understand. Is that right? A. Yes.

Q. First jump and second jump?

A. Second jump when the boat came out. It's the last slack I seen.

Q. On those occasions they came clear down on the deck? A. Came on the deck.

Q. At other times would it move down just a little bit?

(Testimony of Moses Kakai Ekau.)

A. I could see a little more. Touched the deck first slack.

Q. That happened only twice? A. Yes, twice.

Q. First jump and second jump?

A. And second jump when the boat went out.

Q. Now, about the "Mikahala" line. Did you observe the "Mikahala" closely at all? Did you look at the "Mikahala" carefully?

A. I look sometime and sometime I watch my line I could see her line.

Q. You couldn't see any line?

A. I could see her line was in the chock.

Q. What chock was her line?

A. I don't know what chock is that, but the chock close to the poop on the other deck.

Q. On the other deck? A. Main deck, yes.

Q. On which side of the ship?

A. Waikiki side of the ship. [1567—733]

Q. How many lines did the "Mikahala" have?

A. What?

Q. Did the "Mikahala" have one or two lines?

A. I seen one line.

Q. Didn't you see whether or not the "Mikahala" had two lines running to the "Celtic Chief"?

A. I seen one line there.

Q. You never saw more than one line?

A. I never saw more than one line.

Q. At any time that day?

A. I didn't look before that, but at the time I was watching there was one.

Q. That's Wednesday afternoon?

A. Wednesday night.

(Testimony of Moses Kakai Ekau.)

Q. Could you see Wednesday night?

A. What?

Q. Was it light enough for you to see the lines Wednesday night? A. Yes, sir.

Q. How?

A. By the search-light of the cruiser.

Q. Did you go to the edge of the "Celtic Chief" at the rail and look over at the "Mikahala" lines?

A. I could see where I was standing because my head was above the rail.

Q. Your head was above the rail? A. Yes.

Q. Did you go up close to the rail?

A. No, I stand right on the deck, not close to the rail.

Q. You never went close to the rail to look at the "Mikahala" lines?

A. Not close to the rail but I could see the lines from the "Mikahala" to that sailing vessel.

Q. Where could you see it, over at the "Mikahala" or down at the "Celtic Chief?"

A. From the "Mikahala" down to the water.

Q. Did you see it come up on the "Celtic Chief" side?

A. I could see from the rail the line come right in the chock.

Q. Will you swear there was only one line on the "Celtic Chief?" [1568—734]

A. That's only one line I see.

Q. If there had been two of those lines you would have seen them, would you?

A. I would see them.

(Testimony of Moses Kakai Ekau.)

Q. If there had been two you could have seen them?

A. I could see; it was plain.

Q. You could see all around? A. Yes.

Q. So if there had been two lines you could see both of them?

A. If she had two lines I could see two lines.

Q. But she didn't have two lines?

A. I seen one line. That's all I seen.

Q. How far away from the "Celtic Chief" was the "Mikahala? A. I don't know how far.

Q. About how far?

A. I can't name the distance.

Q. Would you say a hundred feet or a thousand feet or was it nearer?

A. I can't make out. It's quite far. Ain't very far from here down to Hotel.

Q. What Hotel? Hotel Street? A. Yes.

Q. You think that. That would be somewhere around a thousand feet?

A. I don't know. Might be a thousand feet from here down to there; I don't know.

Q. Do you know how big a line she had?

A. No, I didn't take notice.

Q. You didn't take any notice of the size of her lines? A. No.

Q. Do you know whether she was pulling or not?

A. I don't know, but I seen sometime her line she some up taut, sometime slack in the water. That's all I seen.

Q. Would it be up more than it would be down or how?

(Testimony of Moses Kakai Ekau.)

A. When the boat, the vessel, come up it got taut; when she come down, the line was slack down in the water. [1569—735]

Q. Where were you? A. I was right there.

Q. Where? A. On the deck.

Q. What part of the deck?

A. On Ewa side of the deck. I mean Waikiki side of the deck going forward.

Q. And all the time you were going forward and aft till the ship was coming off, the second jump?

A. No, I was by the tackle by our main block.

Q. When the blocks dropped the second time, where did you go? Were you right by the block when it dropped?

A. I was right there and the other people right too.

Q. What did you do as soon as it dropped the second time?

A. When everything dropped down and Tom call us to clear the block.

Q. Well, what did you do?

A. We ran around to clear the block with the other men.

Q. From where?

A. Right on that deck where that blocks was lying.

Q. What did you undo?

A. Just clear the block, take off.

Q. Unhook the shackle from the hawser?

A. No, from the other tackles. We can't do nothing.

Q. You unhooked all your blocks from that after lashing, is that right? A. From the main tackle.

Q. From the main tackle?

(Testimony of Moses Kakai Ekau.)

A. We had lots of small tackles when everything was dropped down every thing lost.

Q. What did you do—just cut it and unhooked the block?

A. We had some slack because our line was astern. We unhook. Tom Mason was on the poop ready to cut the line.

Q. What did you do? A. We was on the deck.

Q. What did you do?

A. We worked around with the other men on the deck.

Q. You stayed down there unshackling that block.

A. Unshackling that block, walking around and coil up some ropes [1570—736]

Q. Did you go up on the poop?

A. No, I didn't.

Q. You didn't go up there and look over the lines of any of the other vessels? A. No, I didn't.

Q. When was the "Mikahala" line cut?

A. When the boat was off.

Q. Before or after she was afloat?

A. When the boat come off, our line was slack, that's the time the line was cut.

Q. How do you know?

A. Because we know when the boat got out we can't see "Mikahala" alongside with us. If the line ain't cut she supposed to drag along the ship together. The line was cut. I didn't see the "Mikahala."

Q. When was it cut?

A. When the boat, when the ship come off from the reef.

(Testimony of Moses Kakai Ekau.)

Q. After she was, or while she was going off?

A. While she was going.

Q. How do you know?

A. Because we can't see her. We was on the ship and all the lines was loose.

Q. What direction of the "Mikahala" were you?

A. Right ahead.

Q. Ahead of you?

A. When the ship come off.

Q. What direction was she pointing?

A. First time she was pointing Waikiki.

Q. Square at Waikiki?

A. Not square; kind of going out to the land.

Q. Heading more toward Waikiki than she was before? A. What?

Q. She was heading more for Waikiki than she had been before? She wasn't heading for Waikiki so much during the afternoon, was she? A. No.

Q. When the "Celtic Chief" came off, did you see the [1571—737] "Mikahala" off the side?

A. Well, I could see the "Mikahala" going in that way while we was going on.

Q. You could see the "Mikahala" going in?

A. Because the ship was coming off.

Q. She was swung out going in?

A. She was at the same place, but this vessel I was on was coming out and the "Mikahala" was seeming like coming in.

Mr. OLSON.—Going opposite direction from you.

A. Yes.

Mr. WARREN.—She was heading opposite direction from you, was she? A. Yes, she was.

(Testimony of Moses Kakai Ekau.)

Q. You say the "Mikahala" was pointed toward Waikiki?

A. The first time, before the boat come until she was heading on Waikiki side, ain't very much on Waikiki—kind of slant farther from the line.

Q. How do you know what way she was headed at twelve o'clock that night when the ship came off?

A. We could see all the stern, where the stern would be.

Q. You saw the "Mikahala" stern? A. Yes.

Q. Where was the search-light then?

A. The search-light from that cruiser?

Q. Yes.

A. Was fastened to this boat all the time.

Q. Fastened to what boat?

A. To the sailing vessel.

Q. Was it fastened to the "Mikahala"?

A. Fastened all the boats out there because the light was throwing all this place we was working and I could see the "Mikahala" plain.

Q. When was the first time you noticed the "Mikahala" when the "Celtic Chief" was coming off when you got through fixing your tackles?

A. The time I seen? [1572—738] No. The time going out; we was going out.

Q. Did you see her line just before it was cut?

A. What?

Q. Did you see the "Mikahala" line before it was cut? A. I seen the "Mikahala" line.

Q. Just before it was cut?

A. Before the boat got out I seen her line. When the boat go out I can't see his line no more. Her line.

(Testimony of Moses Kakai Ekau.)

Q. Didn't you say that you couldn't really see whether the "Mikahala" was doing anything when the "Celtic Chief" came off? Could you?

A. When the "Celtic Chief" came off?

Q. Yes. A. I can't see what she doing.

Q. You really don't know what the "Mikahala" was doing when the "Celtic Chief" came off?

A. Yes, when that came off we look. The "Mikahala," I don't know what she doing.

Q. When were the lines of the other pulling vessels cut?

A. I don't look on the other side because most of the boats on the other side.

Q. Were the other lines cut?

A. I don't know if they cut or not.

Q. You don't?

A. No, what I seen when we floated out, that's all I seen.

Q. Now, how near to the "Arcona" did the "Celtic Chief" come when she came off the reef? What direction did she move? A. Moved down this way.

Q. Toward what vessel? A. What?

Q. What way did she move? What direction?

A. I don't know what direction is that.

Q. Came off the reef and moved out of the way?

A. Moved out this way, going out that way.

Q. Toward what boat that was out there?

[1573—739] A. Toward this boat was towing.

Q. Which one?

A. That "Arcona," where the light is, the searchlight is.

Q. Towing her? How do you know the "Arcona"

(Testimony of Moses Kakai Ekau.)

was towing her?

A. Well, first when I start to look her she was out there and she got her line on board on the stern and after that time I didn't like to go around there and look her line. I was working my work.

Q. Did you mean that the "Arcona" was towing when the "Celtic Chief" came off?

A. I don't know whether she was towing or not. She was turned about when that was floating.

Q. And the "Celtic Chief" went out toward the "Arcona"?

A. Yes, sir. When the vessel came out and the "Arcona" come this way and the vessel was floating out that way and the "Arcona" was going toward the Waikiki side of the vessel after the vessel come out this way.

Q. How near to the "Arcona" did the "Celtic Chief" come when she came? A. About quite far.

Q. How's that? A. Quite far.

Q. How far? A. I don't know how far.

Q. Did she come about half of the distance or less than half? A. Quite little far.

Q. Now, when the "Arcona" pulled the "Celtic Chief" out to sea, did you see the lines that she was using?

A. I see the line before, when that was rigged. It's a wire line. The "Arcona" was towing the "Celtic Chief."

Q. Did you see her lines then?

A. I can't see her line. I don't pay attention her line. I didn't look her line; I was working my work.

Q. You didn't go up on the poop then?

(Testimony of Moses Kakai Ekau.)

A. No, I don't pay attention her line because when the [1574—740] boat was out I start coiling our rope.

Q. You didn't pay attention to the "Arcona"?

A. I see the "Arcona" but I didn't pay attention to the line.

Q. You didn't pay any attention to any other boats? A. Just the "Arcona."

Q. Just the "Arcona"?

A. I never pay attention to look the "Arcona's" line.

Q. What did you look at?

A. I was on deck working, coiling our ropes and fixing our tackle.

Q. Do you know whether or not on Tuesday night, Capt. Miller went anywhere near the "Celtic Chief," nearer than the "Makee" did?

A. He was on the "Makee."

Q. He was on the "Makee and went out Tuesday night? A. When he went out Tuesday.

Q. Did he go over on the "Mokolii" Tuesday night?

A. The captain of the "Mokolii" go over Tuesday night.

Q. Did Capt. Miller go on the "Mokolii"?

A. He was on the "James Makee."

Q. Did he stay on the "Makee" all Tuesday night.

A. After that I don't know. He was no work that night, dark; can't see her line.

Q. Do you know whether or not he went over to the "Celtic Chief" on Tuesday night?

A. I don't know. Haven't seen him.

Q. Who was it came back from the "Celtic Chief"?

(Testimony of Moses Kakai Ekau.)

and reported they wouldn't take the surf line?

A. The captain of the "Mokolii."

Q. What did he say about that?

A. He say captain of the vessel won't allow put the line.

Q. To whom did he say that?

A. The captain of the ship.

Q. Did the captain of the "Mokolii" tell Captain Miller? Capt. Miller was on the "Makee"?

A. "Makee"; yes.

Q. Did he say why he wouldn't take it on?

[1575—741]

A. He talked to the captain but I don't hear him.

Q. You didn't hear him say why?

A. I hear what the captain says.

Q. What was that?

A. He told Capt. Miller that the captain on the sailing vessel wouldn't allow to put our surf line on the vessel.

Q. Did he give any reason?

A. No, I didn't hear any. That's all I remember.

Q. What did you anchor the "Makee" with?

A. The same place.

Q. What did you anchor her with? What anchor?
A. Her small anchor.

Q. What? Her small anchor? A. Yes.

Q. Now, you say you saw a second red light go up. Was that before or after the rockets went up?

A. The second red light?

Q. Yes. A. After the fireworks is fired.

Q. What? A. After they fire that rocket.

Q. After the rockets went up that second red light went up?

(Testimony of Moses Kakai Ekau.)

A. That's when they fired, then they send the light up the same time. The rocket was fired first then the light go up.

Q. That's at the second jump?

A. That's the second jump, yes.

Q. Coming back to the first jump, where was Capt. Miller, do you know?

A. I don't know where he was. He was on the poop, I think. I didn't mention.

Q. You don't know where he was?

A. First I see him he was around with the captain. After that I don't know where he went to. [1576—742]

Q. Do you know where the captain of the ship was? A. I don't know who was on the poop.

Q. Do you know where Pilot Macaulay was?

A. I seen Pilot Macaulay; yes.

Q. They were all on the poop when that first jump came? A. Macaulay was on the poop.

Q. That was about an hour before the second jump? A. What's that?

Q. That first jump was about an hour before the second? A. About that.

Q. And at that time Pilot Macaulay and the captain of the ship and Capt. Miller were up on the poop? A. I seen Macaulay on the poop.

Q. About that first jump? Was that just a light, little jump or was it so strong everybody on the vessel could notice it?

A. That is strong could feel it.

Q. How do you know that?

A. It was kind of strong.

(Testimony of Moses Kakai Ekau.)

Q. Make a grinding sound on the bottom?

A. I can't feel the sound but you could feel it.

Q. Just easily or very strongly?

A. Just. I can't—just what I tell.

Q. Did the ship move much? How far did the ship move? A. Ain't very far—just like drag.

Q. Did she move as much as half her length?

A. No.

Q. Not that much? A. Not that much.

Q. How much do you think she did move?

A. I can't see how much she moved.

Q. Well, ten feet or twenty feet?

A. No, about a couple of feet.

Q. Couple of feet? A. Yes, kind of dragging.

Q. Your tackle dropped to the deck?

A. Come right to the deck the first jump. [1577—743]

Q. Didn't go clear to the deck the first jump?

A. No.

Q. Did you hear anybody call out when she jumped at first? A. What.

Q. Did anybody call out that the ship was moving when the first jump came? A. No; I didn't hear.

Q. Did you hear any orders from Capt. Miller right about the time of the first jump?

A. I didn't hear. I heard the order from Tom Mason.

Q. What was that order?

A. That was after the first jump.

Q. What was it?

A. Call us to heave away. Call me, call the boys to heave. The boys was heaving little slow and after we jumped Mason called me tell the boys heave little fast

(Testimony of Moses Kakai Ekau.)

so we start to heave from that time. Ain't very fast. After that time the jump come the boys was hurrying. The tackle was coming fast like she's go out, she's going out.

Q. The first jump was strong enough for everybody to feel on the vessel?

A. Yes, strong for everybody to feel on board.

Q. Shake the vessel? A. Ain't very strong.

Q. You could feel it so there was no mistake about what it was? A. What?

Q. You knew the ship was moving?

A. I knew the ship was moving, first jump.

Mr. OLSON.—That's all. [1578—744]

[Testimony of Makelana, for Libelant.]

Direct examination of MAKELANA, a witness called on behalf of Miller Salvage Co., Ltd., and sworn.

Mr. WEAVER.—What's your name?

A. Makelana.

Q. Do you know the "Celtic Chief"? A. Yes.

Q. Do you know the ship, "Celtic Chief"?

A. Yes, sir.

Q. What were you doing on Tuesday, December 7, 1909, in relation to the "Celtic Chief"?

A. On her?

Q. What were you doing that day, Tuesday, December 7, 1909—what were you doing that day?

A. We getting the anchor, hawser, blocks, and steel cable wire on board the "Makee" from the Hackfeld wharf.

Q. For whom were you working at that time?

A. Miller Salvage Company.

(Testimony of Makelana.)

Q. Who was your boss? A. Captain Miller.

Q. Any other boss under him?

A. He's only my boss.

Q. Not Dick Clarke? A. No.

Q. You know Tom Mason? A. Yes.

Q. Was he your boss? A. No.

Q. Only Captain Miller? A. Yes.

Q. Who paid you off? A. Captain Miller.

Q. Were you working for the Miller Salvage Company, on [1579—745] Wednesday, the next day?

A. Yes, sir.

Q. What were you doing?

A. We take our anchor, big anchor, and rig our line on the "Celtic Chief," Wednesday morning.

Q. Tuesday night, what did you do with the "James Makee"?

A. They anchored six o'clock Tuesday.

Q. What anchor did you use?

A. The "James Makee."

Q. The "James Makee's" anchor? A. Yes.

Q. Did you have a big anchor belonging to the Salvage Co.? A. Yes.

Q. Where was that then?

A. We lay that anchor Wednesday morning.

Q. Where was that anchor that Tuesday night?

A. I remember the "Makee."

Q. What did you do Wednesday morning?

A. We take the anchor, the gib anchor Tuesday.

Q. What did you do with it?

A. Dropped it in the water.

Q. How far away from the "Celtic Chief"?

A. About between five and seven hundred feet, as far as I can guess.

(Testimony of Makelana.)

Q. Seven hundred feet, you think?

A. Of course, I can't guess; she's too far.

Q. What direction was it from the "Celtic Chief" you dropped it? A. Stern.

Q. What did you do then?

A. Run our line to the "Celtic Chief."

Q. What were you doing yourself? You ran a line to the "Celtic Chief"; but what were you doing? What was your job? A. Capstan.

Q. You haven't got on to the "Celtic Chief" yet. You were on the "James Makee"? How did you get on the "James Makee" [1580—746] from the "Celtic Chief"?

A. When we dropped the big anchor that we had, after we went aboard.

Q. After you dropped the big anchor, what did you do?

A. We had to get our lines over to the "Celtic Chief."

Q. Then what did you do?

A. We go out then I had to go to the capstan.

Q. You went on the "Celtic Chief" and went up to the capstan? A. Yes.

Q. What were you doing on the capstan?

A. Heaving up our line.

Q. When you got to the capstan, what did you do with it, if anything?

A. Just got our bar in, get ready our bar in and when we get all our lines fixed up and we started to heave him up.

Q. When you say you got your lines fixed up, what do you mean by that? A. All complete.

(Testimony of Makelana.)

Q. What did you do with the lines in the capstan? What had the lines to do with this capstan? Explain to the Court.

A. I have to turn the capstan and then you get ready and then you have to heave him away.

Q. Did you turn, take a turn with the line around this capstan? A. Yes.

Q. Then you put your bars in the capstan, and began to move the capstan? A. Yes.

Q. And what did that do to the tackles, if anything? A. Some other boys was working there.

Q. When you were heaving in on the lines what was—what effect did it have on the tackles? You know there were [1581—747] tackles on the ship, didn't you? A. Yes.

Q. When you began heaving in what did that do to your tackles, if anything? A. Help up our line.

Q. Did you get that hawser to the anchor taut or not? Did you have a hawser to the anchor of the Miller Salvage Company? Did you have an anchor to the Miller Salvage Company? Did you have a steel wire, steel cable, or something?

A. Yes, from the Miller Salvage Company, Miller Salvage Company's anchor.

Q. Did you get that taut at any time or not? Did you get that rope to the anchor taut? A. Yes.

Mr. OLSON.—I object to the question on the ground. it's leading.

Mr. WEAVER.—Q. What effect, if any, did the turning of the capstan have on the anchor, on the cable of the anchor?

Mr. OLSON.—I object to that; it's calling for a

(Testimony of Makelana.)

conclusion of the witness.

Mr. WEAVER.—Q. What did the turning of that rope around the capstan do to this rope that was attached to the anchor? When you turned the capstan—what happened when you turned this capstan with the rope on it? A. Getting our line tight.

Q. Did you get it tight? A. Yes.

Q. And when you got it tight what happened to the “Celtic Chief,” if anything?

Mr. OLSON.—I object to the question on the ground it is [1582—748] incompetent, irrelevant, and immaterial.

Mr. WARREN.—Same objection.

The COURT.—Objection overruled.

Mr. WEAVER.—Q. Do you understand the question? A. Yes. When she—

Mr. OLSON.—If the Court please, I’d like to have it appear of record that it’s taking the witness a long time to answer this question.

Mr. WEAVER.—Q. Did you understand the question or do you wish it put in another form?

A. We get our line taut and the “Celtic Chief” moved inch by inch, as far as I know.

Q. When did that happen?

A. Between eight and ten that night.

Q. What indication was there that the “Celtic Chief” was moving off at all? A. Sir?

Q. What was there to show that the “Celtic Chief” was moving? How do you know it was moving?

A. Well, I could feel it.

Q. How do you feel it? Describe it.

A. I could feel the keel scraping.

(Testimony of Makelana.)

Q. How much of a movement was this, if you know? A. How many she moved?

Q. Yes, how much she moved, if you know?

A. Inch by inch.

Q. Altogether, did she move one inch? Do you mean inch by inch? How much she moved at a time? You say inch by inch, which means, to me, some inches. How much altogether? How many times did she do that or how much did she move altogether that time? [1583—749]

A. How many times she moved?

Q. How many inches she moved?

The COURT.—How far did she move?

A. I can't guess right, but between four and five.

Mr. WEAVER.—Q. Four and five what?

A. Five inches.

Q. Now, then, after that, after you felt her move this way, what movement did you feel about her? Was there another movement at that time?

A. Afterwards.

Q. What happened then? What did you do about tackles, if anything?

Mr. OLSON.—When?

Mr. WEAVER.—At that time when she was moving a few inches.

A. At the time we moving inch by inch, after that I was on the capstan, so we held our line tight so some other men, you know, had to change our line because our lines—

Q. What do you mean, had to change our lines?

A. Like this, because we always move our hawser to the cable, fast to the cable and pull him out; that's what we do.

(Testimony of Makelana.)

Q. Well, after this inch by inch what was the movement of the vessel after that, if any?

A. After that?

Q. Right after that was there a movement after that?

A. After that about two jump, that's the last; about the first jump and the second jump that's the last.

Q. Then altogether, how many movements or jumps, as you call them, were there by this vessel?

A. The last one?

Q. Altogether from the first time you worked on the [1584—750] "Celtic Chief" to the time she came off?

A. Not the inch by inch but the jump; there is only two jumps.

Q. Then there was the inch by inch movement and the two jumps; is that what you mean? A. Yes.

Q. When were these two jumps?

A. What time?

Q. Yes, what time—after or before this inch by inch movement? Were these two jumps after the inch by inch movement or before? A. After.

Q. How long after? A. About an hour.

Mr. WARREN.—Do you mean both? You said these jumps.

A. First jump from the inch by inch, from that time to the first jump is about one hour.

Mr. WEAVER.—Now then, we come to what you call the first jump. Now, what was the interval between that first jump and any other jump?

A. And the last jump?

(Testimony of Makelana.)

Q. Yes.

A. I can't guess right what time is it, but somewhere about half an hour, I think.

Q. Then I understand that there was the inch by inch movement that you spoke of then an hour, then a jump then another hour and another jump?

A. Yes.

Q. How strong was this first jump that you speak of? How strong was this first jump that you speak of? A. How many feet?

Q. What was the effect, what did you feel about it?

A. Feel? You could feel our lines, capstan is loose, is coming, very slack.

Q. You could feel that the lines to the capstan were very [1585—751] slack?

A. Our lines were very slack.

Q. What did you do about it then, if anything? Were you at the capstan then at that time?

A. Yes.

Q. What did you do about it, if anything?

A. We had to hurry to get our cable wire tight and heave him over again.

Q. Now, that first jump that you experience and you hurried up, what did you do when you hurried up? What work did you do about that capstan in hurrying up? A. To get our lines.

Q. How did you get your lines? What did you do to get your lines? A. Pull in the slack.

Q. How? A. With our hands.

Q. You pulled in your slack with your hands? How much could you get in with your hands? Was that a little or a great deal? A. About a foot.

(Testimony of Makelana.)

Q. Oh, you only got a foot in. Then what did you do after you pulled in the slack with your hands and got that foot in? What did you do with that line?

A. Have to turn the capstan again.

Q. You couldn't turn the capstan, you had this fall in your hand. What did you do with your line then?

A. We had to turn our line to the capstan.

Q. Took a turn to the capstan. How many turns?

A. Three or four.

Q. Then what did you do?

A. Then we had to turn the capstan.

Q. Then what work was done on that capstan when you began to turn? A. To get our line tight.

Q. Can you say—were you working on the bars at [1586—752] that time? A. Yes.

Q. What kind of work—was it hard or easy at that time? A. The first time you work is very hard.

Q. At the time you took the turn about the capstan and you began to move, after the first jump, was it hard or easy to go on taking in that slack?

Mr. OLSON.—I submit the witness has answered it is hard.

The COURT.—Proceed.

A. It's not very hard like before.

Q. Then what did you do when you began to take a turn? Did that have any, was there any difference in your work after that? A. Yes.

Q. What? A. It is not hard as before.

Q. Yes. Describe the work.

A. Not as hard as before.

Q. How long did this continue this thing, this working on the capstan that way?

(Testimony of Makelana.)

A. Just went at that time.

Q. What happened next?

A. But it's very hard. And afterwards it's not hard as before.

Q. When you say not hard, what do you mean about working on that capstan? You tell about your own knowledge. You were working on the capstan at that time. Did you say it was hard now? What was the difference in your work?

Mr. STANLEY.—Do you mean the degree of difference?

Mr. WEAVER.—I want any difference that he *can*.

A. No difference because I was on the capstan and no change.

Q. Now, you say it was hard. How fast were you going, moving around the capstan before this first jump? A. Before the first jump?

Q. Yes.

A. We have to pull in very [1587—753] hard the capstan because there is three men on the bar. It's very hard to pull.

Q. And after the jump when you took in this slack?

A. When we turn the capstan not hard as before.

Q. How long before that first jump?

Mr. OLSON.—How long was it easy?

Mr. WEAVER.—After the—you said it was not so hard after the first jump?

A. Yes.

Q. Now, how long did that kind of work keep up, that easy work? A. About three minutes.

(Testimony of Makelana.)

Q. Then what happened, after that? What happened?

A. After we get little bit hard again because, you see, the first time, the first jump, our lines is not very tight as before so when we took a slack in because when the time you turn the capstan you feel it is not hard as before because your rope is not stretch out that time, and about two or three minutes we get our line hard again.

Q. Was there any work done from that time up to the time of the second jump on that capstan?

A. The last jump?

Q. Yes, the last jump. Was there any work done from the end of that three minutes you are speaking of up to the time of the second jump on the capstan?

A. Yes.

Q. What kind of work were you doing?

A. Well, we have to turn that capstan.

Q. Well, were you turning it or not?

A. We were turning.

Q. Who was turning? Were you turning it?

A. No, three men at a bar.

Q. Well, were you working there?

A. Yes. [1588—754]

Q. How many men altogether?

A. Eight bar, twenty-four men.

Q. How long were those twenty-four men working at that time? After the three-minute work you speak of, were those twenty-four men working all the time up to the second jump? A. Yes.

Q. How hard were they working, if you know?

Mr. OLSON.—I object to the question on the

(Testimony of Makelana.)

ground it is impossible for the witness to say. He is not qualified to answer.

The COURT.—Objection overruled.

Q. How hard were those men working at that time? Those twenty-four men?

A. How strong?

Q. How strong?

A. How strong they turning that capstan?

Q. Yes.

A. They have to turn very hard, then we have to turn and we have to work to turn that capstan. We got no chance to stay back because we see the ship is moving. We have to keep on that bars and turn it to get the ship out.

Q. That means none of you took a rest; is that what you mean?

A. No, like this. You know, we had twenty-four men on eight bars and sometimes the others come in and the others step back, see? Not the twenty-four men keeping on that capstan. Some come in, some go out.

Q. Do you know why they went out? A. Yes.

Q. Why?

A. Because they getting tired. [1589—755]

Q. Do you know in the course of that time between the first and the second jump, how many men had changed? How much relief there had been there?

A. I don't know.

Q. Were there many or few that got relieved that way? A. Many.

Q. Half, perhaps, or more or less?

A. About five; between ten men relieve the twenty-four.

(Testimony of Makelana.)

Q. What—how much effort did you use that time you were working at the bar that time, weren't you?

A. Yes.

Q. Describe what effort you used on that. How much strength did you use to get that thing going there?

A. Well, I have to use my strength all that I can.

Q. How long did that thing keep up, that kind of work? A. How long?

Q. Before you got rested? A. How long?

Q. From the three-minute time you described pulling in the slack getting to hard work again, up to the time of the second jump, how long was it you had to use that force? A. How long I relieve?

Q. How long you were working on the capstan that way? A. About one hour.

Q. When the second jump came what did you hear and what did you feel about it, if anything?

A. The last jump?

Q. Yes, the last jump.

A. See our lines all slack and we have to cut our lines to throw overboard.

Q. When the second jump came what did you do about the capstan, if anything?

A. No, we didn't do. We have to throw our line overboard. [1590—756] We didn't do any more to the capstan the last jump.

Q. Just before you threw your lines overboard, what were you doing? A. Before the last jump?

Q. You say you had to throw your lines overboard. Before that, what were you doing with the capstan? I'll withdraw the question.

(Testimony of Makelana.)

A. We have to get away from the ship because our lines throw overboard.

Q. While you were at the capstan?

A. We didn't do no more on the capstan when we throw our lines overboard.

Q. Just before that, before you threw the lines overboard, were you working on the capstan just the same as before or not? A. Yes.

Q. When you were working there, did you notice any vessels astern of the "Celtic Chief," any steamers? A. Any steamers? Yes.

Q. What were they?

A. "Mikahala," "Helene," "Likelike," and the German cruiser, "Arcona."

Q. Do you know whether or not—did you notice whether or not they were attached to the "Celtic Chief" by lines?

A. If they have lines on the "Celtic Chief"?

Q. Yes.

A. Yes, their lines *on the* stuck on the "Celtic Chief."

Q. Now, at the time of the movement inch by inch, that you speak of, of the "Celtic Chief," did you notice the lines to the "Mikahala"? A. Yes.

Q. And the "Arcona"? A. Yes.

Q. And the "Likelike"? A. Yes.

Q. And the "Helene"? A. Yes. [1591—757]

Q. Do you know—if you did notice them, can you say what the condition of those lines was at that time with regard to any strain on them? Do you know what strain is? A. Yes.

Q. Pull. A. Pull? No.

(Testimony of Makelana.)

Q. What do you mean by no?

A. They not pulling.

Q. Well, could you see them?

A. Yes, I could see them.

Q. How could you see them?

A. The light from the German boat, the searching.

Q. And where were you looking from when you saw them? A. On the capstan.

Q. Where was the capstan placed?

A. Forward.

Q. Where forward—up on the bow? A. Yes.

Q. Up on the forecastle? What could you see from the forecastle? How close could you see up to the “Celtic Chief” from the forecastle?

Mr. OLSON.—I object to that question. It is incompetent, irrelevant and immaterial.

Mr. STANLEY.—And also unintelligible.

Mr. WEAVER.—From your position on the fore-castle how close to the bow or stern of this “Celtic Chief” could you see? A. From the—

Q. From your position on the forecastle?

A. From the capstan to the poop.

Q. Yes, how close up could you see? We’ll change the question.

A. I could see very plain because the search-light from the German cruiser.

Q. You could see plainly on that ship. You could see—how far could you see the lines? You saw the lines of the “Mikahala” coming through the stern of the “Celtic [1592—758] Chief,” could you?

(Testimony of Makelana.)

A. Yes.

Q. How close to the "Celtic Chief" could you see these lines, these lines of the "Mikahala"?

A. How close the "Celtic Chief"? See from the "Mikahala"?

Q. How close up to the "Celtic Chief" could you see this line from the "Mikahala"? Could you see it close up or far away?

The COURT.—Wouldn't it be clearer to ask him how much of the line he could see?

Mr. WEAVER.—How much of that line could you see?

A. How many feet? How many yards?

Q. What part of it, half, quarter, third or what part of it could you see where you looked from the forecastle at the "Mikahala" line?

A. You see the capstan up in the bow and you could see plain by the search-light.

Q. How much of it could you see? Could you see all of it or part of it?

A. Can't see all because the line is in the water.

Q. Could you see the part near the "Celtic Chief" coming right in the side?

Mr. OLSON.—I object to any suggestion of where that line came.

Mr. WEAVER.—You couldn't see all because it was in the water that time when you pulled this inch by inch movement?

A. Yes.

Q. Did you see that line in the water that time?

A. Yes.

Q. Was it out of the water sometimes?

(Testimony of Makelana.)

A. No.

Q. Could you see whether or not the "Mikahala" was pulling at that time?

A. If he pulling the lines would not go in the water.
[1593—759]

Q. Could you see the stern of the "Mikahala"?

A. Yes.

Q. Could you see the condition of the water at the stern of the "Mikahala"? A. The distance?

Q. The condition of the water at the stern where the wheel is, could you see that? A. Yes.

Q. Can you say whether or not at that time she was pulling from the condition of that water?

A. No, she's not pulling.

Q. How could you see this at night?

A. By the light, the light show; by the search-light.

Q. The same time—you are speaking of the inch by inch movement. Take the first jump; do you know what the condition of the "Mikahala's" lines were when the first jump came after this inch by inch?

A. Yes.

Q. What did you see that time?

A. The lines in the water. The first jump they not pulling.

Q. And the last jump, the second jump?

A. The last jump, the time the ship come off.

Q. Did you see the lines of the "Mikahala" then?

A. I saw the lines in the water.

Q. Just before they were in the water, did you see them? A. Yes.

Q. Were they pulling or not? A. No.

Q. Take the "Arcona" lines.

(Testimony of Makelana.)

A. The "Arcona" not pulling.

Q. At any one of these times that you call the inch by inch, the first jump, and second jump, was the "Arcona" nulling? A. No.

Q. How could you see?

A. By the light and by the way the line in the water.

Q. Could you tell whether there was a strain on this [1594—760] line? A. No strain.

Q. Why not? A. Because they not pulling.

Q. How do you know?

A. Because the line was slack.

Q. What was the condition of the lines with regard to the surface of the sea, these "Arcona" lines?

Mr. OLSON.—Object to that question; it has been answered.

Q. Were these lines deep in the water or were they only in the water, on the surface of the water?

A. Deep on the water.

Q. During the first jump, was that the same condition? A. Yes.

Q. And the second jump? A. The last jump?

Q. Yes. What did you notice?

A. The last jump they give they have, they got the fireworks from the boat so that's the time the German cruiser started to pull the boat out.

Q. What happened to the lines of the "Arcona" then? A. That's the time they pull.

Q. Well, what happened to the lines when they pulled? How do you know they pulled?

A. The time they give the sign from the poop.

Q. They gave the sign from the poop. How do

(Testimony of Makelana.)

you know they were pulling?

A. By the way she started to pull out.

Q. How do you know the "Arcona" was pulling?

A. By the search-light. The time they cut our line throw overboard, the search-light working; that's the time they pulling out; the lines come out, stretch out from the water.

Q. The two lines from the "Arcona" to the "Celtic Chief" stretched out from the water after the fireworks? A. Yes.

Q. Did you see any other schooner than fireworks at that [1595—761] time?

A. That's only what I seen, the fireworks.

Q. Did you see anything else? Nothing more?

A. No, don't see.

Q. Did you see any lanterns?

A. I didn't see. I never took no notice. I see the fireworks going up.

Q. Which was first—this first jump or the fireworks? A. Jump first.

Q. Now, then, the second jump you spoke about, was that first or were the fireworks first?

A. The last jump?

Q. Yes, the last jump.

A. The last jump first and afterwards the fireworks.

Q. Now, did you see any lines? You saw the "Helene" and the lines from the "Helene" to the "Arcona," to the "Celtic Chief"? You saw the "Helene" and the "Likelike" lines? A. Yes.

Q. What were the conditions of those lines at the time of the inch by inch movement? Were they

(Testimony of Makelana.)

slack or were they tight? A. Slack.

Q. And at the time of the first jump?

A. Same thing.

Q. And at the time of the second jump?

A. Same thing.

Mr. WEAVER.—That's about the end. I'd like to keep his testimony open.

Mr. OLSON.—If the Court please, I'd like to do a little cross-examining.

Cross-examination on Behalf of Libellee.

Mr. OLSON.—Q. Mr. Moki, all of these lines from all of these boats [1596—762] that were pulling from the "Celtic Chief" were all down deep in the water? A. Yes.

Q. You could see that plainly enough.

A. Yes.

Q. How many lines did the "Arcona" have on the "Celtic Chief"? A. Two lines.

Q. You could see both of those? A. Yes.

Q. They were hanging in the water? A. Yes.

Q. You could see where they all came up to the "Celtic Chief" out of the water? You could see how they came out of the water? A. Yes.

Q. You were pulling at the capstan all the time?

A. Yes.

Q. You didn't go away from the capstan?

A. Sometimes, when I got relieved.

Q. Where did you go to?

A. Go around and look.

Q. Where did you look?

A. Go behind the ship where them lines.

(Testimony of Makelana.)

Q. But you could see all of these lines from the capstan from where you were working on the capstan? A. Yes.

Q. There was no difficulty in your seeing all this from where you were working on the capstan?

A. Yes.

Q. No trouble? A. No trouble; yes.

Q. And that's where you saw all of this from the capstan. You said you were at the capstan working and you were watching the lines?

A. Like this; I was working on the capstan, when the time they relieve me I have to go around and then that's the time I saw everything going [1597—763] on. Sometime when I was on the capstan I could see the "Helene" and the "Mikahala" and the "Likelike" lines, and you can't see the other line of the German cruiser because it is on the other side, but when I got relieved I could see both lines.

Q. Most of the time you were not working on the capstan, were you? You weren't working very much of the time on the capstan, were you? A. No.

Q. You didn't do very much work on the capstan?

A. I didn't do it.

Q. I ask you, did you do very much work on the capstan? A. Yes.

Q. You weren't working much of the time on the capstan? A. I working; yes.

Q. I'm asking you how much time you spent on the capstan? Did you work long on the capstan, a long time on the capstan? Can't you answer my question? A. Wait a minute.

(Testimony of Makelana.)

Q. I'm not asking you for minutes. Did you work a long time?

A. Not a long time, because, you see, we had to relieve and I had to go around. Sometime I come in and sometime I used to go out between them too.

Q. Now, then, didn't you tell Mr. Weaver a short time ago that you were working on that capstan when she gave the first jump? A. Yes.

Q. And that you worked on that capstan from that time up to the time when she came off? A. Yes.

Q. You were working there all the time? A. Yes.

Q. You didn't leave the capstan during that time? [1598—764] A. No, I didn't leave.

Q. You didn't leave the capstan? You never went away? A. No.

Q. You told Mr. Weaver you were working there all the time from the first jump? A. Yes.

Q. And you couldn't see the "Arcona" lines when you worked on the capstan? A. The capstan?

Q. From the capstan?

A. The time I worked on the capstan, I can see.

Q. You could do it? A. Yes.

Q. You could see the line? A. Yes.

Q. There was no question but what the "Arcona" was not pulling? A. Yes.

Q. You could see that from where you were working on the capstan? A. Yes.

Q. And you were working on that capstan from the time she jumped the first time, all the time until she came off? A. Yes.

Q. I want to ask you how you could see those lines?

(Testimony of Makelana.)

Could you see that they sank right down into the water? A. Yes.

Q. How far from the stern of the "Celtic Chief" would they hit the water?

A. The "Arcona" lines?

Q. Yes, the "Arcona's" lines?

A. How many feet?

Q. Yes, about how many feet?

A. I can't guess how many feet right, but between fifteen and twenty.

Q. You could see where they touched the water all right enough? A. Yes.

Q. On both sides? A. On both sides.

Q. From where you were working on the capstan?

A. Yes. [1599—765]

Q. When she moved inch by inch were you working on the capstan? A. Yes.

Q. How much of the time were you laying off between the time she moved inch by inch and between the first jump? A. How many time I off?

Q. Yes. A. About two times.

Q. How long were you off each time?

A. How long I'm off?

Q. Yes. How much rest did you take?

A. Didn't take a rest not about five minutes.

Q. But you were off five minutes?

A. Not about five minutes. Nearly about that because I can't guess.

Q. About five minutes each time?

A. Something like that.

Q. All the rest of the time you were working on

(Testimony of Makelana.)

that capstan? A. Yes.

Q. Isn't there a house on the main deck?

A. Yes.

Q. Runs right across the ship? A. Yes.

Q. Except a little on the sides? A. Yes.

Q. There is a poop on the deck that comes about eight or ten feet? A. Yes.

Q. The bulwarks come up four or five feet on the main deck? A. Yes.

Q. Then back on the poop the sides of the vessel come up there? A. Yes.

Q. Seven or eight feet? A. Yes.

Q. You can't see the water back of the "Celtic Chief"? It's solid in there?

A. Yes. [1600—766]

Q. Solid? A. Solid behind?

Q. Yes, underneath the poop. There are ——— that go right up to the poop deck from the main deck?

A. Yes.

Q. Where is the capstan? About amidships at the bow? About the same distance from the side on each side?

A. I can't tell you because I'm not sailor.

Q. Well, this capstan was up in the bow of the vessel? A. Yes.

Q. About how far from the rail?

A. From one side to the other?

Q. Yes. A. How many feet?

Q. Yes, from the capstan to the side of the vessel?

A. About between six and eight.

Q. Six and eight feet? A. Yes.

(Testimony of Makelana.)

Q. Six and eight feet. How far from the other side?

A. I think about the same; of course, I can't—

Q. It's right in the middle, isn't it, between the sides? A. I can't tell you; it's right in the middle.

Q. Just about? A. Yes.

Q. Now, then, as you were working at the end of the bar you were about six or eight feet from the sides. As you were out there at the end of the bar you would come six or eight feet from the sides?

A. Yes.

Q. Now, then, I want to ask you how you could see the "Arcona's" lines over the house and through that poop deck?

A. That stick is about—that stick on the capstan, can't tell how many feet long. About six or eight.

Q. About six or eight feet long?

A. I was outside there. [1601—767]

Q. You were right at the end?

A. Right at the end and I could see plainly.

Q. I want to ask you this: the capstan is on the main deck there up on the vessel? A. Yes.

Q. And the whole tackle was rigged on the main deck, wasn't it? A. Yes.

Q. And the capstan is on the main deck?

A. Yes.

Q. Back in the bow of the vessel? A. Yes.

Q. The capstan is on the main deck, wasn't it, in the bow of the vessel?

A. Yes, in the front of the ship.

Q. It was on the same deck that the tackle was rigged up, was it? You know where the tackle was

(Testimony of Makelana.)

rigged? A. Yes.

Q. Same deck, wasn't it? A. Yes.

Q. Now then, how could you look over this poop deck back of the vessel and see the "Arcóna's" lines on both side from where you stood?

A. I was outside at the end of the bar. When it go around you could see the line.

Tuesday, August 22, 1911.

Mr. WEAVER.—Go on with the cross-examination.

Mr. OLSON.—How many capstans were there up at the bow of the "Celtic Chief"?

A. How many capstans?

Q. Yes. A. One.

Q. Only one capstan there? A. Yes.

Q. That is all? A. When I was working.

Q. Were there any others around there?

A. I didn't take notice.

Q. You didn't see any other? A. No.

Q. You know that there were no others, don't you, up there [1602—768] in the bow?

A. In the bow?

Q. Yes. There was no more? A. No more.

Q. Then there was one capstan astern, was there not, near the poop, astern of the house?

A. Well, I didn't take notice.

Q. You don't know whether there is any there or not? A. Yes, sir.

Q. Now, this capstan up in the bow of the vessel was located about the middle? Wasn't it just about as far from one side of the ship as it was from the other? Isn't that right? A. On the side?

(Testimony of Makelana.)

Q. No. I'm asking you, wasn't it just about in the middle of the ship about as far from one side as it was from the other?

A. From the bow to the stern?

Q. No, no. Side to side. A. Side to side?

Q. Just about in the middle, this capstan?

A. Not quite in the middle. I can't say it's in the middle because the capstan is on the bow. I can't remember right in the middle of the ship because I don't take a measurement.

Q. Well, it was pretty nearly in the middle?

A. Pretty nearly in the middle.

Q. How wide was it from one side of the ship to the other there? A. About six or eight feet.

Q. Six or eight feet?

A. From between the capstan to the side of the ship?

Q. No, I said from one side of the ship to the other side of the ship.

A. To the other side of the ship? I don't know how many feet.

Q. About thirty feet, wasn't it?

A. No, that's too much, thirty feet.

Q. Well, was it about twenty-five feet?

A. Between ten and twenty.

Q. Between ten and twenty? A. Yes.

Q. Was it as little as ten feet? [1603—769]

A. As far as I know, between ten and twenty feet. That's all.

Q. Was it as little as ten feet?

A. Less than that?

Q. No. Was it less than ten feet?

(Testimony of Makelana.)

A. No, little over ten feet.

Q. How far to the side of the ship would you come as you were standing at the capstan at the end of the bar at the capstan?

A. About two or three feet away from the side.

Q. Wouldn't it be at least three feet away from the side? A. I think about three feet away.

Q. From the side of the ship when you came out at the end of the bar?

A. I don't know. Yes, two or three.

Q. Might it be more than three feet?

A. I can't tell about that.

Q. You were working hard on that capstan?

A. Yes.

Q. You wouldn't drop the bar and run around?

A. I didn't drop the bar only take my time to rest.

Q. Except when you took your time to rest?

A. Yes.

Q. Otherwise you would work hard on the bar all the time? A. Yes.

Q. Where would you be on the bar? At the end of the bar on the outside, or between two men?

A. At the end.

Q. Always? A. Yes.

Q. All the time? A. Yes.

Q. How tall are you? A. I don't know.

Mr. OLSON.—I'd like to have the witness measured.

The COURT.—I don't think there will be any objection. (Clerk measures witness.)

Mr. OLSON.—The measurement—I'll ask the clerk to state what the measurement is. [1604—770]

(Testimony of Makelana.)

The CLERK.—The measurement is five feet, three inches.

Mr. OLSON.—I'll ask counsel to admit that the measurement just now made of the witness by the clerk shows that he is five feet three inches tall.

Mr. WEAVER.—Admitted on behalf of the Miller Salvage Co.

Mr. WARREN.—I so admit.

Mr. OLSON.—Now, just where was this capstan?

A. Where it was, the capstan?

Q. Yes, what you were working on.

A. Where the capstan stands on the ship? In the bow.

Q. On the bow of the vessel? A. Yes.

Q. You would go back and forth, wouldn't you, on the deck when you were at rest? A. Yes.

Q. And it was the main deck, wasn't it, that the tackle was rigged on? These blocks and ropes and tackles were on the main deck?

A. It was on the deck, but I don't know which is the main deck.

Q. Well, was the capstan on the same deck as the tackles were on? A. It's on the bow.

Q. It's on the bow, that's true, but I want to know if it was on the same deck as the tackles were rigged on? A. No.

Q. Higher or lower? A. Capstan is higher.

Q. How much higher?

A. Can't guess right the high, but between four and six. Six feet height.

Q. Between four and six feet height? A. Yes.

Q. It was up there on the forecastle, or the bow?

(Testimony of Makelana.)

A. It's on bow, I don't know if that was fore-castle.

Q. That was between four and six feet high?

A. Yes.

Q. You had to go up some steps from the deck to get on that place? A. Yes. [1605—771]

Q. About five or six steps?

A. Yes, five or six steps.

Q. And that, you think, was about from four to six feet high? A. Yes.

Q. Do you know how wide the "Celtic Chief" was amidships about the middle of the ship? How wide it was from one side to the other?

A. How wide the "Celtic Chief"?

Q. Yes. From one side to the other, just about the middle of the boat.

A. The middle of the boat?

Q. Yes. A. From one side to the other?

Q. Yes. A. Between twelve and sixteen.

Q. Twelve or sixteen feet wide? A. Yes.

Q. Wasn't she pretty nearly as wide as this room is long? A. No, this is more wider.

Q. Don't you think that she was about forty feet wide?

A. No, I don't guess about that. I don't know.

Q. You don't know?

A. I don't know suppose she was forty feet.

Q. She might be forty feet so far as you could tell?

A. No, as far as I could tell it was about sixteen or twenty.

Q. Sixteen or twenty feet wide? A. Yes.

(Testimony of Makelana.)

Q. And that's all? A. Yes.

Q. That would be a little bit more than half as wide as this room; is that right?

A. The ship is little bit more than this room, the widest.

Q. I'm asking you how wide it is. Is it as wide as the room or less, or more?

A. The ship is less than this room.

Q. Less than this room in width? A. Yes.

Q. How long was she, do you think? [1606—772]

A. I don't know how long.

Q. Do you know how much three hundred yards is, one hundred yards, is? A. Three feet a yard.

Q. And you know how much three hundred feet is, don't you? A. Yes.

Q. You know just about how long that is?

A. Yes.

Q. Don't you know that that ship was just about 266 feet long? A. No, I don't know.

Q. Don't you think she was? I think she was just about 266 feet long.

A. I don't think it was 266 feet long because I don't know the measure how long she is.

Q. That looks to you about right?

A. It looks like to me between one hundred and two hundred feet.

Q. Now then, up there near the bow of the vessel where the capstan was, it wasn't as wide there, was it, as it was farther up on the ship, in the middle of the ship? A. The capstan is?

Q. Yes, where the capstan was.

A. Where the capstan is, is not much wider be-

(Testimony of Makelana.)

cause it was up in the bow.

Q. Was it as wide farther toward the middle of the ship? A. Farther up to the bow?

Q. I'm asking you how wide it was right there where the capstan was, compared with the ship about in the middle of the ship. Was it as wide or was it wider or not so wide?

A. No, not so wide because the capstan is there. Not wider than the ship because it is right on the bow.

Q. That's narrower there? A. Yes.

Q. That's pretty much wider? A. Yes.

Q. A good deal wider? A. Yes.

Q. Do you know where the "Arcona's" line came up to the "Celtic [1607—773] Chief," where it came into the "Celtic Chief"?

A. The "Arcona" line?

Q. Where was it on the "Celtic Chief" that that was attached to the "Celtic Chief"?

A. The two lines?

Q. Yes.

A. From the "Celtic Chief" to the "Arcona"?

Q. Yes. A. The two lines?

Q. Yes. A. I was on the capstan.

Q. Where was it that those two lines from the "Arcona" came on to the "Celtic Chief"? What part of the "Celtic Chief" did those lines come to?

A. Come to the stern.

Q. At the stern? A. Yes.

Q. Right at the stern of the ship?

A. Both two lines.

Q. Yes. A. One on each side.

Q. One on each side of the stern of the ship?

(Testimony of Makelana.)

A. Yes.

Q. Don't you know that those two lines came through two chocks or holes in the side of the vessel, one on either side of the stern; two little holes on the sides of the vessel that those lines came through? Isn't that so? A. Yes.

Q. Now, as you were standing up there near the capstan, you could plainly see both of those lines?

A. Yes.

Q. You could see the "Arcona"? A. Yes.

Q. You could see these lines where they went down into the water about fifteen or twenty feet astern?

A. Yes.

Q. You could see where they came out of the water at the "Arcona"? A. Yes.

Q. How far from the "Arcona" did they come out of the water?

A. Where the line entered the water? [1608—774]

Q. Yes. How far from the "Arcona" would you say? About the same distance as it was away from the "Celtic Chief"? Fifteen or twenty feet would you say?

A. The "Celtic Chief," between the "Celtic Chief"?

Q. No, no, no. I want to know how far it was from the "Arcona" that her lines went into the water. You saw that the lines went down into the water? How far away from the "Arcona," was it?

A. Between thirty and fifty.

Q. But the lines at the "Celtic Chief" end went down into the water fifteen or twenty feet right back

(Testimony of Makelana.)

astern of the "Celtic Chief"? A. Yes.

Q. And you could see both of those lines plainly from the capstan where you stood? A. Yes.

Q. Now, the poop stands from six to ten feet on the deck? A. Yes.

Q. Quite a big distance? A. Yes.

Q. Now, you know, don't you, that on the port side, that is to say, on the left side of the "Celtic Chief," the hole in the side of the vessel through which the "Arcona's" line on that side came into the "Celtic Chief" was right where the poop starts, was it?

A. Yes.

Q. You remember that very well? A. Yes.

Q. And you mean to tell the Court, do you that you could see that line from the capstan where you stood where it went down into the water about ten, fifteen, or twenty feet from the stern of the "Celtic Chief"? A. Yes.

Q. At the same time you could see the line on the other side? A. Yes.

Q. Where it went down into the water?

A. Yes. [1609—775]

Q. Plainly? A. Yes.

Q. Right back of the "Celtic Chief"? A. Yes.

Q. Do you remember that there were some gallies with some small boats hanging on them right back of the bow? A. Yes.

Q. Right near you there where you were working?

A. Yes.

Q. Lying there attached to the gallies? You remember that, do you? A. Yes.

Q. There were four of them? A. Yes.

Q. So that you had right ahead of you the house?

(Testimony of Makelana.)

A. Yes.

Q. That is, right back of you as you look toward the "Celtic Chief" there is the house, in the middle of the boat? A. Yes.

Q. And in front, lying there between you and the house, there are these four boats on the gallies; isn't that right? A. Yes.

Q. Now, that place where those boats were resting went right across from one side of the "Celtic Chief" to the other, didn't it, right back of the bow?

A. Yes.

Q. Will you explain to the Court how it was that you could see the "Arcona's" lines dead astern with these boats standing there with the house in front of you and the poop deck in front of you? How could you see?

A. Because the ship is right where the bow is too, and the stern in the way and the capstan is high and I could see plainly.

Q. You could see right over it?

A. Because the ship stern is down in the water and the bow is up and I was on this capstan and you could see it [1610—776] plainly because they got the search-light and the bow is higher than the stern.

Q. Now, that was pretty high, wasn't it, way up out of the water? A. Not very up from the water.

Q. The stern was further down in the water?

A. The stern is in the water. The ship is like this. The stern is in the water and this part where she got on the reef is higher than the stern, and the bow where the capstan is is higher than the stern.

Q. That was Wednesday afternoon and Wednes-

(Testimony of Makelana.)

day night? A. Yes.

Q. Now, where the stern went down into the water, how far would you say it was from the water up to the top of the poop deck—how many feet?

A. The poop?

Q. Yes, how far from the water up to the top of the poop deck? You know what the poop deck is?

A. No.

Q. Well, its that deck right back of the ship. Don't you know that there was a higher place on the deck of the ship? A. Yes.

Q. That's the poop deck where you had to go up some steps. A. Yes.

Q. How far was it from the water, would you say, up to the top of that deck?

A. Well, I don't know how far from the water.

Q. The water was just about five or six feet from that, wasn't it. It was away down in the water, the top of the stern?

A. It's way in the water. It's in the water.

Q. Down deep in the water? A. Yes.

Q. The water was pretty nearly coming into the deck, wasn't it? A. No.

Q. Well, how far was it then?

A. Between three and five feet. [1611—777]

Q. You think it was between three and five feet from the water to the top of that poop deck?

A. Yes.

Q. Now then, how far was it from the water up to the deck or the place where you were, where the capstan was standing? Fifteen or twenty feet?

A. No.

(Testimony of Makelana.)

Q. Ten or fifteen feet?

A. No, somewhere between six and eight feet.

Q. Then it was pretty nearly the same as it was at the back, wasn't it? A. No.

Q. How much higher?

A. I think the bow is higher than the stern.

Q. How much? You said it was, didn't you? You know that it was higher, don't you? A. Yes.

Q. How much higher?

A. The stern to the bow?

Q. How much higher was the bow than the stern from the water? A. About six or eight feet.

Q. Six or eight feet higher? A. Yes.

Q. Then, if it was about three or five feet from the water to the top of the poop, then it must have been about ten feet, ten or eleven feet from the water to the place where you were working, up where the capstan was? Is that right? Ten or eleven?

A. From the water where I am working?

Q. From the water down to the ocean up to the floor of the forecastle where you were working, where the capstan was located, that would be ten or eleven feet, wouldn't it? Can't you answer my question?

A. About somewhere. Might be, but I can't guess if it's supposed to be like that, ten or eleven feet.

Q. You don't know? A. No.

Q. When you say that the bow was up out of the water higher than the stern, do you mean it was like the side of a hill [1612—778] from the bow down to the stern? A. Yes.

Q. A steep hill? A. Not very steep.

Q. Not very steep. Well, will you show here, on this ruler, just about the angle? Let's have that

(Testimony of Makelana.)

ruler and we'll see what your idea of the slant was.

(Witness indicates slant with ruler.)

Q. Now, have you indicated just about the slant of the boat with that ruler? A. Sir?

Q. Does that show just about the slant from the bow where you were looking? Is that right? Have you indicated that? A. Yes.

Q. Now, I'd like to have this measured, if the Court please. Now then, you've got that ruler in the position which shows just how the slant from the place where the capstan was standing over to the top of the deck at the stern of the vessel? A. Yes.

Q. Is that right?

A. Yes, but this measurement is not exactly the way it is before. I just take and show you.

Q. That's the way you think it was?

A. As far as I think, but this is not just like.

Q. Give us as close as you know how.

A. That's the closest I know.

Q. Now, I'd like to have the Clerk measure the distance at the end of the ruler down to the level which the witness has indicated, the highest point, representing the bow of the vessel. Now then, will counsel admit that it is three and a half inches from the level on which the ruler rests to the point, the highest point, which indicates the bow of the vessel?

Mr. WEAVER.—I won't admit it because it is immaterial.

Mr. OLSON.—I withdraw the last question then and I'll ask the Clerk to measure the distance from the end of the [1613—779] ruler on the level to the point directly beneath the highest point of the

(Testimony of Makelana.)

ruler. The base, in other words, of the right angle triangle.

The CLERK.—Seventeen and a half inches.

Mr. OLSON.—Do all counsel admit that the base of this right angle triangle formed by the ruler is seventeen and a half inches?

Mr. WEAVER.—It is admitted by the Miller Salvage.

Mr. WARREN.—It is admitted by counsel.

Mr. OLSON.—I want to have measured the perpendicular from the base to the top of the rule. I withdraw the last question. Now then, I want the hypothesis of this right angle triangle to be measured; that is, the length of the ruler with which the witness is indicating the slope which is admitted by all counsel to be eighteen inches.

Mr. WEAVER.—It is by the Miller Salvage Co.

Mr. WARREN.—Admitted.

Q. I want the perpendicular measured of this right angle triangle; that is to say, from the hypothesis to the base.

The CLERK.—Three and three-quarters.

Mr. OLSON.—Is it admitted by all counsel that the perpendicular of this triangle shown by the demonstration of the witness is three and three-quarter inches?

Mr. WEAVER.—Admitted by the Miller Salvage Co.

Mr. WARREN.—Admitted for Inter-Island and Matson.

Q. Now then, you mean to say, do you not, that there was a sufficient slant of this boat so that you

(Testimony of Makelana.)

could stand on this place where the capstan was and look right over the stern of the ship?

A. What I was—

Q. Can't you answer me? Could you look right over the stern of the ship?

A. I could see because the capstan is up and the stern is down and I could see the two lines behind the "Celtic Chief" between thirty and fifty feet away from the stern. [1614—780]

Q. Stern of the ship? A. Stern of the ship.

Q. Now, why did you say that you could see where those lines went into the water about fifteen or twenty feet away from the stern?

A. Fifteen or twenty feet?

Q. Why did you testify yesterday that you could see those lines where they went into the water about fifteen or twenty feet away from the stern of the "Celtic Chief"? Can't you answer my question?

A. Yesterday I answered fifteen or twenty feet.

Q. Yes, and you did this morning also. Now, why did you say that if you could only see thirty or fifty feet away from the ship? Thirty or forty feet away? Why are you taking so long to answer my question? Can't you answer my question?

Mr. WEAVER.—If your Honor please, I object. Every time the witness starts to answer him he stops him.

The COURT.—I think he ought to have a little time to think it over.

A. From the stern, from the place where the lines go right away from the capstan, from the stern to the place where I could see the lines in the water,

(Testimony of Makelana.)

about fifteen or thirty feet.

Q. Fifteen or thirty feet? A. Yes.

Q. And you could see these all along? A. Yes.

Q. Why did you say just two or three moments ago that you could only see thirty or forty feet beyond the stern or between thirty and fifty feet?

A. Well, because that's what I guessing.

Q. You guess part of the time it was fifteen feet and part of the time thirty or fifty feet, do you?

A. Between fifteen and thirty.

Q. Sometimes you guess it is fifteen or thirty and sometimes [1615—781] you guess it is thirty or fifty? A. Yes.

Q. That is, in other words, you don't know how much it was?

A. Yes, fifteen or thirty feet as far as I know.

Q. Well, now, do you mean it is thirty to fifty feet, or do you mean fifteen to thirty feet?

A. Fifteen to thirty feet.

Q. Fifteen to thirty feet is what you could see?

A. Yes.

Q. You could see easily, then, fifteen feet from the stern of the ship? A. Yes.

Q. Without any trouble?

A. Between fifteen and thirty.

Q. You could see as far—you could see as near to the stern of the "Celtic Chief" right back astern as from you to me where I'm standing now, about fifteen feet away from you; is that right?

A. Very hard to see if you was on the —— and I was on the capstan.

Q. If you were up on the capstan you could see

(Testimony of Makelana.)

a point about as far away from the stern of the "Celtic Chief" as I am from you now; is that right? (Standing at end of rail of jury-box.) You see me, don't you? A. Yes.

Q. Can't you tell whether you could see as near to the stern of the "Celtic Chief" as I am standing from you now? A. Yes.

Q. You could see that there? A. Yes.

Q. Right directly astern of the "Celtic Chief"? A. Yes.

Q. And you could see right over the poop deck and see a point right from the stern of the "Celtic Chief"? [1616—782]

Mr. WEAVER.—I object to that as assuming something not in evidence.

Mr. OLSON.—I'll withdraw the question. Now then, standing at the capstan of the "Celtic Chief," Mr. Moki, and looking over the poop deck at the stern of the "Celtic Chief," were you able to see a point not further distant from the stern of the "Celtic Chief" than the distance between me and you as I stand here, about fifteen or sixteen feet away from you?

A. Yes, about fifteen feet away from the stern.

Q. Could you have seen that point, then, from where you stood at the capstan?

A. Between fifteen and thirty feet?

Q. No, the distance between you and me, could you see that long? A. Yes.

Q. And I'm about fifteen or sixteen feet away from you, am I not? A. Yes.

Q. That's right, isn't it? A. Yes.

(Testimony of Makelana.)

Q. All right.

Mr. WEAVER.—Let the distance be shown.

Mr. OLSON.—All right, we'll have the clerk measure the distance. I'll ask that it appear of record that I was standing a distance of eighteen feet and eleven and a half inches when I referred to the distance as from fifteen to sixteen feet. Is that admitted by all counsel?

Mr. WEAVER.—Admitted.

Mr. WARREN.—Yes.

Q. Now, I want to know, Mr. Moki, what you meant yesterday when you made this answer. I asked you this question, "And that's where you saw all of this, from the capstan?" You said you were at the capstan working and you were watching the lines and you answered me, "Yes, I was working at the capstan when the time they hauling. I have to go around and then that's the time [1617—783] I saw everything going on. Sometime when I was on the capstan I could see the 'Helene' and the 'Mikahala' and the 'Likelike' lines, and you can't see the other line of the German cruiser because it is on the other side, but when I not working I could see both lines." Now then, what did you mean by telling the Court that you couldn't see one of the lines of the German cruiser "Arcona" when you were working on the capstan? What did you mean when you said that yesterday?

A. That I didn't see the "Arcona" line when I'm working on the capstan.

Q. That you *could* couldn't see one of them? What did you mean when you said yesterday that

(Testimony of Makelana.)

you couldn't see one of the lines of the cruiser when you were working on the capstan? Isn't that true, that you couldn't see the German cruiser's lines from where you were working on the capstan? Isn't it true that you could only see those when you got away from the capstan and took your rest?

A. I told you yesterday when I work on the capstan I was outside the bar and I could see both lines.

Q. What did you mean by saying that you couldn't see the other line of the German cruiser because it was on the other side, but "when I not working I could see both lines"? Which one is true? Could you see both lines? A. I could see.

Q. So that when you said that yesterday, you weren't telling the truth?

Mr. WEAVER.—Object to that.

The COURT.—Let him answer.

Q. Isn't it the fact that you were not telling the truth yesterday when you said that you couldn't see the line of the German cruiser?

A. That is all I telling.

Q. Don't you understand my question? [1618—784] A. No.

Q. Yesterday you said, "Sometimes, when I was on the capstan, I could see the 'Helene' and the 'Mikahala' and the 'Likelike' lines, and you can't see the lines of the German cruiser because it is on the other side, but when I not working I could see both lines." Now, you say to-day that you could see both lines.

A. I was outside the bar. I could see at that time I was on the capstan. I could see both.

Q. What did you mean by saying yesterday that

(Testimony of Makelana.)

you could see both only when you were not working?

A. When they hauling up I have to go on the stern and I saw them lines too and when I was on the capstan I could see then.

Q. Both of them? A. Yes.

Q. What did you mean by saying to-day that you can't see the other lines of the German cruiser? Were you telling the truth or weren't you telling the truth when you said that?

A. I think I was mistaken.

Q. So that, what you said yesterday, was not the fact? A. Not the fact.

Q. Those two lines were two big, manilla hawsers, weren't they? A. The "Arcona's" lines?

Q. Yes, two manilla hawsers. Weren't they big, thick lines that you could see easily?

A. Two lines.

Q. They were big, thick ones, so you could see them easily. You could see them easily?

A. Yes.

Q. So they were big, thick lines?

A. It's not big as this.

Q. Were they as big as the Miller line, the anchor-line? A. No.

Q. How big were they?

A. Little smaller. [1619—785]

Q. Were they steel lines or were they manilla hawsers? A. Cable, steel, wire.

Q. About two inch thick?

A. I don't know. About an inch or two inch.

Q. How thick?

A. I don't know. Between an inch or two.

(Testimony of Makelana.)

Q. Then, they were not nearly as big as the Miller line? A. No.

Q. Very much smaller, weren't they?

A. Little smaller.

Q. Now, the search-light, the big light from the German cruiser, was playing on the stern of the "Celtic Chief," wasn't it? A. Yes.

Q. That's where it was all the time? A. Yes.

Q. And you could see those lines where they came out of the water near the "Arcona" and nearly up to the "Arcona"? A. Yes.

Q. Was it a moonlight night? A. No.

Q. Dark night? A. Yes.

Q. Were there no stars? A. Stars.

Q. Wasn't it a cloudy night?

A. I didn't take notice.

Q. It was a dark night, wasn't it? A. Yes.

Q. How could you see those lines?

A. From the reflection.

Q. How far away from the "Celtic Chief" was the "Arcona"?

A. Great many feet, but I don't know how many feet.

Q. About three hundred yards, wasn't it, from the "Celtic Chief"; just about as far as from Beretania Street to Hotel Street, wasn't it? Three hundred yards or a thousand feet?

A. About two or three hundred [1620—786] yards.

Q. Yet you mean to tell the Court, do you, that you could see those two thin wire lines, only little over an inch thick, plainly, from the water, coming

(Testimony of Makelana.)

up from the water a couple of hundred yards away from the "Celtic Chief"? A. Yes.

Q. Because the light, the search-light, was playing down on the water and you could see those lines very well? A. Yes.

Q. No difficulty at all? A. Yes.

Q. You could see the space right underneath the stern of the "Arcona" that the propeller wasn't turning any water?

A. I didn't take notice if the "Arcona's" propeller is working or not.

Q. Why didn't you take any notice of that?

A. Just see where the light is coming to the cable wire; that's all.

Q. You couldn't see, could you, that distance away? That is the reason? You couldn't see whether the water was turned up by the propeller?

A. I didn't take notice of her propeller working.

Q. Could you see? Was the "Arcona" near enough so you could have seen?

A. I could see her, but I can't tell that I could see what she was doing.

Q. You couldn't see whether or not the water was turning under her stern? A. No.

Q. It was too dark? A. Not too dark.

Q. Not too dark?

A. Not too dark. There is the search-light.

The COURT.—Was there more than one search-light? A. What is that?

Q. Only one search-light or more? How many search-lights? A. One.

Mr OLSON.—Now, this first time that you felt

(Testimony of Makelana.)

this inch [1621—787] by inch movement of the "Celtic Chief." You looked at the different steamers during that time and you saw that their lines weren't slack, did you?

A. From the time that happened we could see the line was working.

Q. You could see that plainly? A. Yes.

Q. All of them? A. Yes.

Q. Including the "Arcona"?

A. Including with the "Arcona."

Q. Later on, about an hour later, when she gave this first jump, none of them were doing anything until that? A. None of them.

Q. The "Helene," or the "Mikahala," or the "Arcona," or the "Likelike"? A. No.

Q. None of them?

A. Like this. I could see the line is slack. Suppose they pull you could see line was taut.

Q. None of them were doing anything at all?

A. As far as I know all the line was slack.

Q. Could you see the water turning up at the stern of these different vessels, the "Mikahala," the "Helene" and the "Likelike"? A. No.

Q. They weren't turning up any water?

A. I didn't take notice.

Q. The line was plain enough?

A. I only take notice of the line.

Q. Why did you take any notice of those lines?

A. The time them boats they waiting for the high tide sea, maybe in the morning, then they start all to pull.

Q. That was when they were going to pull?

(Testimony of Makelana.)

A. Yes.

Q As a matter of fact, that's really the fact that they were all going to pull at high tide and they were waiting for that time? A. Yes. [1622—788]

Q. And that's why they weren't pulling?

A. Yes.

Q. Now, you know that's so? A. Yes.

Q. When was it going to be high tide?

A. Sometime that morning.

Q. Daylight?

A. No, about between twelve and four.

Q And they were waiting for that time before they were going to pull? A. Yes.

Q. Now, Mr. Makalena, isn't it the fact that you think they were not pulling because you understood that they were going to wait until that time to start to pull? Isn't that the real reason why you think they weren't pulling?

A. The reason is because I see their lines is slack.

Q. That's the real reason? A. Yes.

Q. All of this time the lines were never out of the water at all?

A. Sometime out of the water, sometime in the water.

Q. What made them do that? Do you know?

A. Because the ship was bouncing up and down.

Q. Not because they were pulling?

A. I don't know if they pulling or not.

Q. But you could see the lines in the water? Sometimes they came up?

A. Like this. I never think that the line was very deep in the water. Sometime the ship bounce up

(Testimony of Makelana.)

and down, the sea and everything, and the lines come up the water.

Q. That's true of the "Arcona's" lines?

A. Not the "Arcona's" line, because the "Arcona" is not a light boat like the others.

Q. That's the reason? A. Yes

Q. She would not come up and down? [1623—789]

A. No.

Q. Her lines were deep in the water all the time?

A. Not very deep in the water.

Q. How deep in the water?

A. About four or five inches in the water.

Q. Right along the whole way you could see the line plainly? A. Not along the whole way.

Q. Well, how deep was it? A. Half her line.

Q. That is, right in the middle of the line it was in the water four or five inches?

A. That's what I only guess.

Q. I have in my hand here a wire that's eighteen inches long, that's six inches, and that would be, so you think, the depth of those "Arcona" lines in the middle, just about like that? (Showing witness piece of wire rope.) A. Just about.

Mr. WEAVER.—I object to that. The witness has said he guessed.

The COURT.—Objection overruled.

Q. And that's about the depth that you think the lines were in the water?

A. As far as I guess. That's what it looked like to me.

Q. Did it look like more than that or the same as

(Testimony of Makelana.)

that, those lines?

A. I think it's about that, or little more.

Q. How much more? A foot more or six inches more? I'm putting my thumb on twelve inches. Do you think that it would be that big?

A. This is far away from me I can't see how deep.

Q. What do you think?

A. Between six and twelve.

Q. It wouldn't be more than twelve?

A. I don't know more than twelve.

Q. Well, eighteen inches? (Indicating on ruler.)

A. Well, between six and twelve. [1624—790]

Q. It wouldn't be much over twelve inches, would it? A. It's not much more than that.

Q. You're pretty sure, aren't you? You could see very plainly?

A. I could see her line in the water.

Q. Then you can tell, can't you, very well?

A. I can't tell. I don't know how many inches in the water or the lines in the water.

Q. Do you mean to say that they were about from six to twelve or don't you mean to say that?

A. I mean to say that that's the way it looked to me. That's the way it looked to me.

Q. How much of that line was in that way—about half of it? A. How much of the "Arcona" lines?

Q. Yes. A. Been in the water many times.

Q. How much of those manilla lines were in the water that way?

A. How many times that line was in the water?

Q. No. I'm asking you how much of that line was in the water?

(Testimony of Makelana.)

A. I can't understand that question.

Q. Well, you know that that line was two or three hundred yards long, those two lines? A. Yes.

Q. How much of those two or three hundred yards was in the water and how much was out of the water?

A. Between about ten and fifteen feet.

Q. About ten or fifteen feet was in the water?

A. Yes.

Q. The rest of it was out of the water?

A. Yes.

Q. And you could see that plainly from the capstan? A. Yes.

Q. What did you mean to say a few minutes ago that that [1625—791] line went in the water about fifteen or thirty feet and at the end from thirty to fifty feet from the boat? What did you mean by saying that?

A. Over thirty feet away from "Arcona."

Q. Didn't you testify a little while ago and also yesterday that those lines from the "Celtic Chief" to the "Arcona" went pretty nearly straight down from the "Celtic Chief" and went into the water about fifteen or twenty feet back of the stern of the "Celtic Chief"? That's what you testified? A. Yes.

Q. And then you said they came out of the water and went up to the "Arcona" about thirty or fifty feet to the "Arcona"? A. Yes.

Q. Where was the rest of the line? Underneath the water? A. The line is in the water.

Q. From those two points, is that right?

A. Yes.

Q. Well then, is that fifteen or twenty feet, was

(Testimony of Makelana.)

that only ten or fifteen feet from one point to the next? A. From the "Arcona."

Q. Was it ten or fifteen feet from the place where those lines went into the water to where they came out of the water to the "Arcona"? Can't you answer my question?

A. How many feet in the water?

Q. Yes, from one place to the next.

A. From one place to the other?

Q. Yes. A. Ten or fifteen feet.

Q. Now then, how many times would it be that way often or once in a while or all of the time?

A. All of the time.

Q. Didn't change at all? A. No.

Q. Just like that all the time? [1626—792]

A. Yes.

Q. Ten or fifteen feet in the water from one place to the next and the rest of the wire was out of the water? Is that right? A. Yes.

Q. Now then, it was the same way when she came off too, wasn't it? When she made the last jump and jumped off of the reef. None of the steamers were pulling then, is that right? A. Yes.

Q. Just the same? A. The last jump?

Q. Yes.

A. That's the time they give the sign from the poop with the fireworks?

Q. Yes.

A. And that's the time the "Arcona" started up.

Q. Was she already in deep water when the "Arcona" got up steam?

A. The last jump and that's the time they gave the sign.

(Testimony of Makelana.)

Q. Was the "Arcona" pulling then before the "Celtic Chief" came off? A. In the last jump.

Q. Yes. A. No.

Q. It was after the last jump?

A. The last jump and then that's the time they started to pull. The time they got the sign.

Q. When she gave the last jump she went off of the reef, the "Celtic Chief," did she or did she not go off the reef? A. She's out from the reef.

Q. The last time? A. The last time.

Q. Was she already off of the reef by the time that the "Arcona" began to pull?

A. Yes, she's already off the reef.

Q. Before the "Arcona" began to pull?

A. By the time the "Arcona" began to pull.

Q. At that time? A. At that time.

Q. She was already off the reef? A. Yes.

[1627—793]

Q. Now then, when was it that this red light went up on the mast, about the same time?

A. Which mast?

Q. Wasn't there a red light that you testified to?

A. I never noticed about that red light.

Q. It was only the fireworks that you notice?

A. Yes, sir.

Q. Now then, you saw the fireworks, did you?

A. Yes.

Q. And did you see the "Arcona" begin to pull? Did she steam up right away?

A. The time they give the fireworks?

Q. Yes.

A. That's the time we saw she started to pull.

(Testimony of Makelana.)

Q. Did you feel her go forward with the "Arcona" pulling her right away? A. Yes.

Q. How long from the time they fired those signals? A. The same time.

Q. Didn't take more than just a second?

A. No.

Q. That's all; is that right? You felt that right way? A. Yes.

Q. Immediately? A. Yes.

Q. Didn't take two or three minutes for her to get started?

A. No. Like this. Because the time I saw the fireworks put it up from the poop and that's the time we saw them start to pull.

Q. She started to pull right then? A. Yes.

Q. You saw that? A. Yes.

Q. You saw the lines come up out of the water?

A. Yes.

Q. And she went forward?

A. I didn't saw the lines come out from the water because we commenced to get our [1628—794] lines to throw overboard.

Q. But you did see the "Arcona" commence to pull?

A. We see her the time she started to pull.

Q. You could see them start forward?

A. I could see because the ship was gone.

Q. Which ship? A. The "Celtic Chief."

Q. Didn't you see the "Arcona" doing something?

A. Yes.

Q. She was going forward wasn't she? A. Yes.

Q. That's all I want. Now, Wednesday afternoon

(Testimony of Makelana.)

you got the tackles all in shape on board of the "Celtic Chief," didn't you, to pull on that big anchor?

A. Yes.

Q. And after you got them, when you got them finally all fixed and got a strain on a hawser then the boys went and had some lunch? A. Yes.

Q. That was just about an hour before sundown?

A. About six o'clock.

Q. About six o'clock. I see. That was about sundown, wasn't it? A. Yes.

Q. It was then for the first time that they got the tackle fixed and a strain on the hawser to the anchor; is that right? A. Yes.

Q. Now then, how many men were there working pushing on the bar of the capstan, on the bars of the capstan at that time? A. Twenty-four.

Q. Twenty-four men, three men on each bar?

A. Yes.

Q. Were you working there then? A. Yes.

Q. Did you always keep three men on a bar or did you have only two on a bar?

A. No, always had twenty-four men. [1629—795]

Q. Do you know Moses Akai Ekau? A. No.

Q. Do you know Dick Clarke?

A. No, I don't know.

Q. Don't you know that he was the boss there on the boat? Dick Clarke?

A. No, I don't know if he was the boss.

Q. You don't know—don't know anything about him? A. No.

Q. Never heard of him before?

A. I just heard but I don't know.

(Testimony of Makelana.)

Q. You didn't see him on the boat?

A. I might see him but I don't know who is his name.

Q. Do you know Dick Clarke when you see him on the street? A. Yes.

Q. You know who Dick Clarke is when you see him? A. Yes.

Q. Don't you know whether that man was on the "Celtic Chief"? A. No.

Q. What do you mean by saying you don't know whether he was there or not?

A. Because I don't know his name.

Q. But that man was there that night?

A. If it's the man you told.

Q. If you were to see Dick Clarke down on the street now to-day you would know who he was?

A. I don't know. I know his name if somebody tell me.

Q. Nobody has ever told you that anybody is Dick Clarke? A. No.

Q. Was there any other boss on the ship that night except Tom Mason?

A. As far as I know Captain Miller is the only one tell me to go and work for Miller Salvage. He never told me, "This is your boss." He never told me that way. I see the other boys working, I have to do it.
[1630—796]

Q. What is your age? How old are you?

A. Thirty-five years.

Q. What's your work? What's your business, occupation—what do you do? A. Now?

Q. Yes.

(Testimony of Makelana.)

A. Shipping clerk. Shipping clerk, Von Hamm-Young Co.

Q. Shipping clerk for the Von Hamm-Young Co. You drive one of the delivery wagons, don't you.

A. No.

Q. You don't? A. No.

Q. What's your nationality?

Recess.

Q. Your name is Makelau? A. Moses Elana.

Q. Sometimes they call you Moki? A. Moki.

Q. Sometimes they call you Mokilani?

A. No, Moki Elana.

Q. Could you see that hawser that went from the poop down to the anchor? A. I can't see that.

Q. So you don't know that is tight?

A. I know it is taut.

Q. How do you know?

A. Because we keep on pulling.

Q. Why couldn't you see it?

A. It is under the water.

Q. You never saw that line at all?

A. No, because I didn't take notice for that line.

Q. You couldn't see it? A. No.

Q. Every line that you saw from the "Celtic Chief," from one side of the stern to the other side, every line was slack? A. Yes.

Q. And you could see all of the lines plainly because the search-light was there? A. Yes.

Q. But you didn't see the Miller anchor line?

A. No, because it is deep in the water. [1631—797]

Q. You couldn't even see it where it came up to

(Testimony of Makelana.)

the "Celtic Chief"?

A. I could see it on the stern.

Q. When did you see it there? Where were you when you saw it there on the stern?

A. Well, we put in that line because we know that line was on the stern.

Q. But when you were working at the capstan you couldn't see it, could you? A. Can't see it.

Q. It was only because you were pulling on the capstant that you knew it was taut? A. Yes.

Q. And every line that you saw from the capstan clear around the vessel was slack? A. Yes.

Q. All the time? A. Yes.

Q. Don't you know that that line went right over to the poop of the vessel of the "Celtic Chief"?

A. Which line?

Q. Miller's line?

A. I don't know it. I never take notice.

Q. Why could you see that if you couldn't see the other lines? A. Which line, that line?

Q. Why didn't you take notice of that?

A. The line from the stern? Can't see her.

Q. Can't see her? A. Can't see her.

Q. Why? A. It's deep in the water.

Q. Why couldn't you see it where it came up to the "Celtic Chief"?

A. The line from the "Celtic Chief"?

Q. Yes, to the Miller anchor?

A. Well, the lines coming on the boat we could see them, but when we pulling we could see them coming, but the line in the water, can't see that.

Q. Couldn't you see the line where it left the "Cel-

(Testimony of Makelana.)

tic Chief"? A. No.

Q. It hung right straight down? A. Yes.

Q. You went up on the poop once or twice? [1632—798] A. Sir?

Q. You went up on the poop deck?

A. Like this. Suppose I was working on the capstan; I can't see that line. If I go to the railing I could see the line.

Q. You saw it when you went to the railing, did you? A. Yes.

Q. Where were you, then, when you saw it?

A. I went on the back end, stern.

Q. You went on the poop deck? A. Low down.

Q. That line was down in the water?

A. Like this. In the water.

Q. Went right straight, didn't it? A. Yes.

Q. Why was it you couldn't see that line?

A. Because that line was down.

Q. It went down too straight?

A. Went straight.

Q. It went too straight, so it was impossible for you to see it? That's right, is it? A. Yes.

Mr OLSON.—That's all.

Cross-examination of MAKALENA on Behalf of
Libelant's Inter-Island Steam Navigation Co.
and Matson Navigation Co.

Mr. WARREN.—Q. Did you, at any time, see the block on the third tackle loosened up and carried forward and fastened on again? A. Sir?

Q. Did you see them moving the third tackle, carry it forward again and get ready for a new pull?

Mr. WEAVER.—I object to that, if your Honor

(Testimony of Makelana.)

please, as not proper cross-examination. [1633—799]

The COURT.—Objection overruled.

Q Did you understand my question?

A. No, sir.

Q. When you said on the first jump that the tackle dropped down, what did you do then? Just tighten up again on the capstan, take in the slack? Is that all you did when the tackle dropped down?

A. When the tackle dropped down on the first jump?

Q. When the tackle dropped down then what did you do? A. We have to take up the slack.

Q. Is that all you did?

A. When we got the slack there's another boy to fix them up the block.

Q. What did they do?

A. They put back the block like it was before.

Q. They get it loose and pull the blocks apart and carry one block further out for another pull?

A. I can't tell you that, because I was on the capstan.

Q. Well, some other boys did that?

A. Some other boys did that work.

Q. Did you see them do it?

A. When the time they say haul the slack in they say wait a minute and they say they want to fix the block.

Q. What did you do with your rope that you had on the capstan? Take it off the capstan?

A. The slack?

Q. Yes.

(Testimony of Makelana.)

A. They didn't take no slack from the capstan.

Q. You kept the rope on the capstan? A. Yes.

Q. Didn't take it off so as to let out a little of the slack?

A. Sometimes we taut up and fasten up and then run away rope again from the capstan.

Q. You would get it loose from the capstan?
[1634—800]

A. Yes, and the cable wire is already fastened and we have to get another piece again.

Q. You would get it loose from the capstan and another slack and you go forward? A. Yes.

Q. Did you see them do that?

A. I was on the capstan. Part of the boys was working unhooked the strain and part of the boys on the capstan.

Q. How many times did they do that?

A. I didn't take notice how many times they do that?

Q. Was it once or twice or four or five times?

A. Somewhere about four or five times.

Q. Not over that? Somewhere about four or five times?

A. I think about a little over four or five times.

Q. How many men did it take to move that block?

A. There is too many boys there; I can't count how many.

Q. Good many working at it?

A. Yes, because I can't tell how many men doing that job because some hauling the blocks, some doing something else to get our rope taut.

Q. To get the rope through the blocks?

(Testimony of Makelana.)

A. Yes. I can't tell how many men doing that work.

Q. There was more than one man?

A. More than one man.

Q. As many as six men?

A. I can't tell. Might be six. More than one man as far as I know.

Q. One man could have carried that block?

A. One good man, yes, he do it.

Q. One good man could do it?

A. Yes, but they were hurrying to do the work.

Q. They weren't hurrying?

A. Yes, because Captain Miller was there and make the boys do the work.

Q. You think one man could do that, take and pull it over where they needed it?

A. More than one man.

Q. Suppose he's a good man? [1635—801]

A. He could do it then, but it is a hard job. He can't do it that way.

Q. Do you think you could do it if you were alone.

A. Suppose not hurrying for the work I could do myself.

Q. You could take the block and pull back the block?

A. Yes, I could do it myself. Suppose that kind of job, big job like this, I can't do it along.

Q. How many lines did the "Mikahala" have?

A. From her to the "Celtic Chief"?

Q. Yes. A. One line.

Q. Sure she didn't have three?

A. Three lines?

(Testimony of Makelana.)

Q. Yes. A. No.

Q. Could you see the stern of the "Mikahala"?

A. Yes.

Q. Wednesday night? A. Yes.

Q. You could see that she had only one line coming over? A. Yes.

Q. Only one line from the "Celtic Chief"?

A. Yes, sir, one line.

Q. If there had been two lines you would have seen them? A. Sir?

Q. If there had been two lines you would have seen them? A. Yes.

Q. There was only one?

A. As far as I know only one.

Q. As far as you know? Aren't you sure about it? A. Pretty sure about one line.

Q. You are sure of that? A. Yes.

Q. That's all she had on Wednesday, one line to the ship? A. That Wednesday night?

Q. Yes. A. Yes.

Q. Wednesday afternoon?

A. Yes. I see him Wednesday [1636—802] afternoon.

Q. Only one line Wednesday afternoon?

A. Yes, only one line.

Q. Now, you could see the "Arcona" lines just as well as you could see the "Mikahala" lines? Just about the same? A. Yes.

Q. Could you see one better than the other?

A. Yes.

Q. Could you see one better than the other or just the same? A. Just the same.

(Testimony of Makelana.)

Q. You couldn't see the "Mikahala" line better than the "Arcona"?

A. I could see the "Mikahala" same as the "Arcona."

Q. Just as easy to see one as the other?

A. Yes.

Q. So that when you say the "Arcona" line went in the water five or six inches and ten or fifteen feet of the "Arcona," the other line was about the same. The "Mikahala" line about the same as the "Arcona" line? A. Just about the same.

Q. And the "Helene" line just about the same?

A. Yes.

Q. "Likelike"? A. Yes.

Q. So you mean that the lines of all these steamers, the "Mikahala" and the "Arcona" and the "Helene," all of their lines just had ten or fifteen feet or their line under water and the rest was out of water?

A. The "Arcona" line is in the water the same as the other two.

Q. All the lines are about the same?

A. Yes, sir, but the "Arcona" line is not the same as the "Mikahala," ten or fifteen feet.

Q. What was the "Arcona" line?

A. The "Arcona" line is different than the "Mikahala" line because [1637—803] the "Mikahala" line is in the water and the "Helene" line in the water.

Q. More in the water than the "Arcona"?

A. No.

Q. Not so much? A. Not so much.

(Testimony of Makelana.)

Q. The "Arcona" line more in the water than the other lines? A. Yes.

Q. Then if the "Arcona" line was only ten or fifteen feet in the water, how much were the other lines? As much as that? A. Nearly as much as that.

Q. Five or six feet less than ten or fifteen feet?

A. Less than that.

Q. Five or six feet? A. Between five and ten.

Q. You think that's about all there was of the "Mikahala" line and the "Helene" line that was under water? You are sure of that?

A. So far as I guess, about between that. Five feet.

Mr. WARREN.—That's all.

Recess.

Redirect examination of MAKALÉNA on behalf of
Miller Salvage Company.

Mr. WEAVER.—Q. You were working in the fore-castle on the capstan. I want to know of the slant or level condition. What was the condition of the deck of the fore-castle with regard to the main deck. Was it the same level or condition?

A. Different.

Q. Same parallel or different?

A. Different level.

Q. How was it different?

A. The bow is on the reef standing up like this.
(Indicating.)

Q. What do you mean, "like this"?

Mr. OLSON.—Let him finish. [1638—804]

A. And the stern is down and the shape of the ship is like this. The difference comes, where I'm work-

(Testimony of Makelana.)

ing on the capstan is higher than the stern.

Q. By the stern you mean the after end of the forecastle, the behind of the forecastle was lower than the fore end.

Mr. OLSON.—May I have it appear on the record that the witness indicates a slant with his arm?

The COURT.—That won't enlighten the record any.

Q. When you say astern, you mean—what do you mean? What part of the forecastle or the ship are you talking about?

A. Taking the bow and the behind.

Q. I want you to confine yourself to the forecastle only. Do you know which is the forecastle on a vessel? A. No.

Q. The forecastle is that platform where you were working on the capstan? Do you remember that?

A. Yes.

Q. Now, tell me about the deck of the forecastle only, not about the ship. Which end of that forecastle deck was higher? The part toward the stern or the part toward the bow?

A. The part toward to the bow.

Q. About what kind of a slant was that again? Do you know what a slant is? A. No.

Q. Well, incline. A. Well, was it—

Q. How far was it out of level. Do you know what level is? A. Yes.

Q. How far was that different from level?

A. Yes, it's different from level.

Q. How much different from level if you can tell us?

(Testimony of Makelana.)

A. Because the capstan is higher than the deck of the ship.

Q. Do you mean the ship is higher? [1639—805]

Mr. STANLEY.—One moment. And the ship—let him finish.

A. And the ship was on the level and the bow was on the reef is higher.

Q. Can you say whether or not the deck of this fore-castle was the same as the deck of the ship or not? A. The deck of the ship is the same.

Mr. MAGOON.—Where the capstan is, was all the same? A. The deck is not the same.

Q. What's the difference?

A. Because the capstan is high and the deck is lower down. You come from the deck and go about two or three, about five or six steps and you go up to the capstan.

Mr. WEAVER.—How high past this main deck was that capstan deck, that fore-castle deck? That fore-castle deck is where the capstan was standing?

A. How high the capstan?

Q. No; how high was the fore-castle deck above this main deck?

A. About just about couple inches over my head.

Q. And this fore-castle deck you noticed that was just a few inches above your head; is that what you mean? A. Yes.

Q. Now then, from that place going forward, was there any greater steps between those decks than *were place after*? Was it higher than the deck in the front than it was at the back part of this fore-castle deck? A. Where the capstan is?

(Testimony of Makelana.)

Q. Yes.

A. Is higher. You go on deck in front to get higher than the capstan is.

Q. Was it higher than above the main deck?

A. If the main deck is same as capstan.

Q. You know the level of the main deck? You know how the main deck was?

A. Yes. [1640—806]

Q. And you know how the after end of the fore-castle was—just a little above your head? A. Yes.

Q. Now, from that place how was this deck of the forecastle towards the bow? Did it run down or did it run up or was it level?

A. It was the same as where the capstan is.

Q. Do you mean it was level or not?

A. It would be like this. (Indicating.)

Q. Do you know what a slant is? A. Slant.

Q. Which way did it slant? A. From the bow.

Q. From the bow which way?

A. From the bow to the capstan.

Q. From the bow to the capstan and then toward aft? A. From the place climbing up to the step.

Q. To the steps where you walked up on it?

A. Yes.

Q. How much was that slant you showed in cross-examination—you showed the slant of the vessel and a rough indication?

Mr. OLSON.—I object to the question on the ground it is improper redirect examination. I withdraw the objection.

Q. What was that incline? How was that slant?

A. Slant is not very much.

(Testimony of Makelana.)

Q. Can you show it again? You indicate it again. You show us. You showed on cross-examination how much the vessel was slanting, now how much was this forecastle deck slanting?

Mr. WARREN.—I think, your Honor, it's time to interpose an objection that this is not proper redirect examination.

The COURT.—Objection overruled.

Q. Can you show like you did before what that slant was? That incline? A. Yes.

Q. How much? Show by your arm.

A. Like this. (Indicating.) [1641—807]

Q. Now, suppose toward the Reporter is the bow of the vessel and toward the Judge of the court is the stern of the vessel; can you show us how much slant there was on that deck toward the capstan?

Mr. OLSON.—I am willing to have it appear of record that the witness indicates the same slant as he indicated as to the main deck.

Q. Do you know what the bulwarks of a vessel are?

A. No.

Q. Do you know what the railing is? A. Yes.

Q. Was there any railing around this forecastle or not? Forecastle deck?

A. The railing begins on the side.

Q. Where you were working at the capstan was there any railing about the deck there?

A. What you mean by railing.

Q. This is a railing on the witness-box. Fence—do you know what a fence is? A. Yes.

Q. Was there anything like a fence around that forecastle deck where you were working on the capstan?

(Testimony of Makelana.)

Mr. MAGOON.—On the side of the ship.

A. I don't know.

Mr. WEAVER.—That's all.

Mr. OLSON.—I think that's all.

[Testimony of J. Sato, for Libellant.]

Direct examination of J. SATO, a witness called on behalf of libellant Miller Salvage Co., and sworn.

Mr. WEAVER.—Q. Do you know the Miller Salvage Co? A. Eh?

Q. Do you know the Miller Salvage Co? [1642—808] A. Yes, I know.

Q. Were you working for the Miller Salvage Co. at the time the "Celtic Chief" was on the reef at Honolulu, December 6, 7, and 8, 1909?

A. I think so; I don't know that ship name; I see that book. I don't think that's ship name. 6 December, 1909?

Q. 1909. A. I don't put down the ship name.

Q. Did you know a ship on the reef on December 6? A. Yes, 6 December, 1909.

Q. Did you do any work for the Miller Salvage Co.?

A. Yes. Captain, he give orders and I sent all seven o'clock.

Q. Captain Miller ordered some work?

A. That's time, 29, seven o'clock, some work.

Q. What do you mean, 29?

A. You want name?

Q. What do you mean, that time 29?

A. 6 December.

Q. That time 29, what?

A. That evening, seven o'clock. I send Tuesday.

(Testimony of J. Sato.)

Q. What did you send Tuesday?

A. That Captain Miller boat.

Q. And what did you do?

A. After I go see eight o'clock how many men. I can't tell. Count them 29 men.

Q. How many men did you count?

A. That's time twenty-nine. After 7 December, twenty-two; seven after day overtime and Monday. I think all mistake that.

Q. What was the work of these men?

Mr. OLSON.—Let him go on.

A. I don't know what kind. I think saltpeter cargo he take him from boat in schooner.

Q. Take him off the "Celtic Chief" put on the schooner? A. Yes.

Q. For Captain Miller? A. Yes. [1643—809]

Q. Now this, how many men you work there?

A. Altogether sixty day.

Q. Sixty days?

A. Yes, sixty days I move that fertilizer.

Q. From the "Celtic Chief"?

A. Yes, sir. Take him off cargo go back here leave cargo Hackfeld wharf.

Q. Did you get paid for your services?

A. Sunday?

Q. Did you get paid for your services.

A. I go office captain, he pay me. He pay all.

Q. How much did the captain pay you?

A. I think altogether 109.00.

Q. Did you give a receipt to Captain Miller?

A. Yes, I go office.

Q. I show you—

(Testimony of J. Sato.)

Mr. OLSON.—I don't think the receipt is competent evidence. It is not an admission that can be used—

Mr. WEAVER.—Withdraw it.

Q. What did you do with this money, Mr. Sato?

Mr. OLSON.—Object to the question on the ground it is incompetent, irrelevant, and immaterial.

The COURT.—I allow the question.

A. I cash money, I pay same day, pay those coolie.

Mr. MAGOON.—Pay what?

A. Paid those men that work.

Mr. MAGOON.—That's all.

Cross-examination of J. SATO on Behalf of
Libellee.

Q. Who had charge of these men? A. Eh?

Mr. OLSON.—Q. Who had charge of these men?

A. Eh?

Q. Who had charge of these men? Who was the boss? A. Eh?

Q. Who was the boss over these men?

A. That's me. [1644—810]

Q. Were you out on the "Celtic Chief"?

A. I send them all together.

Q. Were you out on the "Celtic Chief"?

A. Yes.

Q. When?

A. I got that's time after seven o'clock the time I go see how many men. I tell captain. He ask how many men I put down name.

Q. Where? A. That ship, I don't know.

Q. You go out to the ship?

A. Yes, I got out the ship.

(Testimony of J. Sato.)

Mr. OLSON.—I'll ask counsel if they are making the claim that this is a list of men that were working independently of the list of men in the book which has been introduced in evidence by Dick Clarke.

Mr. MAGOON.—Yes, a different lot of men altogether.

Q. You know that they all worked on that ship?

A. No, not all the time go.

Q. You don't know anything about it? You don't know whether they worked or not? A. I see.

Q. What did you see? A. All men.

Q. You no see them work?

A. I no see them work. I go Hackfeld wharf. I don't know what schooner, "Concord" or "Mokolii."

Q. How much a day for one man?

A. The price?

Q. Yes. A. All dollar and half day.

Q. Dollar half a day? A. Some overtime.

Mr. OLSON.—I move to strike the testimony of the witness on the ground it doesn't appear that he knows whether or not they performed any of the services for which this money is alleged to have been paid.

The COURT.—The motion is denied.

Mr. OLSON.—No more questions.

Mr. WARREN.—No questions.

Mr. WEAVER.—That's all, Mr. Sato. [1645—

[Testimony of Frederick C. Miller, for Libelant.]

Direct examination of FREDERICK C. MILLER, a witness called on behalf of the Miller Salvage Co., Ltd., and sworn.

Mr. WEAVER.—Q. What's your name?

A. Frederick C. Miller.

Q. Are you the superintendent, were you the superintendent of the Miller Salvage Co. at the time the "Celtic Chief" went on the reef in Honolulu?

A. I was.

Mr. OLSON.—I'll admit that the Miller Salvage Co., Ltd., is a corporation.

Mr. WARREN.—Same admission on the statement of counsel that that's the fact.

Mr. WEAVER.—Yes, it is.

Mr. OLSON.—Of course, my admission is based on the same representation of counsel.

Mr. WEAVER.—It's admitted that the Miller Salvage Co. is a corporation at the time these operations were performed in December, 1909.

Q. Captain Miller, you's heard Sato's testimony?

A. Yes.

Q. Do you know whether or not he had any men working on the "Celtic Chief"?

A. I had men there that this man employed, got for me. This man, Sato, is a head of an employment agency and when we want men in a hurry we go to him and he supplies them and I needed men and went to him.

Q. Did they work?

A. Did they work? Every one of them.

Q. Were they—what were they doing? [1646—812]

(Testimony of Frederick C. Miller.)

A. That lot that he supplied me was employed handling the cargo, partly.

Q. Did the Miller Salvage Co. pay any money to these men or to anyone for them?

A. Paid them \$109.00, I think; whatever that book shows.

Q. Was any receipt given for it? A. Yes.

Mr. OLSON.—I object to the question on the ground it is incompetent, irrelevant, and immaterial.

Mr. WARREN.—I make the same objection.

A. As a matter of fact, I didn't know I had that receipt.

Mr. OLSON.—You didn't know you had that receipt?

A. No, I didn't.

Mr. WEAVER.—How did you come to have anything to do with the "Celtic Chief"?

A. I went out there when she went ashore that morning, Monday morning.

Q. December 6?

A. On December 6 I went out on the dock. I went down on the dock about seven o'clock and Frank Lonche pointed out to a ship outside that he said was ashore.

Q. What time of day was this?

A. This was about a few minutes after seven, as near as I can remember. And he had his launch right there and I jumped into the launch and he took me out to her. When I got out to her the tug "Intrepid" and the Young Brothers' launch, "Huki Huki" were pulling on it, one on each quarter. I went aboard and saw the captain of the ship and the Pilot Macaulay and asked them if they wanted any

(Testimony of Frederick C. Miller.)

assistance. They said they did, they wanted lighters to lighten their cargo. I asked them what was going to hold her on the reef, what was going to keep her from [1647—813] going further when we was lightening her cargo. He said the tug "Intrepid" and the "Huki Huki" would do it.

Q. How large a boat was the "Huki Huki"?

A. I proposed then to them that we lay our big anchor and hold the ship. They wouldn't listen to that. They said it would be easy to pull her off and they told me to hustle in town and get our lighters and get enough men to lighten her, and I came right ashore with Lonche on the launch and took the "Concord" out with a big gang of men; then came back and took the "Mokolii" or "James Makee" and then came out and got the "Kaimiola." At any rate, we got there that time, the three boats. We gathered up all the men we could gather around the beach. I sent to the Pacific Mail Line for their foreman of stevedores, Dick Clarke, and told him to gather up all the men he could get. He brought a gang and we started discharging cargo.

Q. Did you see Sato at that time?

A. I don't know whether I got him just at that time or not, or whether I got him with the last load. I think I got him with the last load on the "Makee" because he came out about dusk to count his men and point them out to me. He pointed out which was his men and counted his men so that when I come to pay them off there would be no question about padding the payroll. That's what he came for. After we

(Testimony of Frederick C. Miller.)

worked on that ship that night until Tuesday morning and somewhere about three o'clock, between three and four we had the last load finished and the captain came to me and told me to get them discharged and come right back again and continue the lightering. I told Captain Henry then that the ship had gone on the reef farther than when I had first joined him in the morning [1648—814] and that if we kept lightering his ship he'd lose it. He said then that the boats, he had then, besides the "Huki Huki" had let go in the meantime during the day sometime and gone away, and he had, if I remember right, at that time, the "Mikahala" and the "Helene" and "Like-like." I don't know just how many she had two or three of the Inter-Island boats holding on to her besides the "Intrepid." They were pulling on her hard that time and he said that they could hold him from going on the reef. I told Henry then, "It's useless to lighten up this cargo because the steamers will go in as fast as you go in. We've been lightering her and taken out four or five hundred tons and you've gone further on the reef."

Q. What did you base that statement on?

A. The fact that she had gone in Monday.

Q. How did you know that?

A. I knew that from ranges taken from the ship and ranges taken from the shore.

Q. What ranges did you take and what did you observe?

A. I took a range at the foot of Fort Street. There's a little telephone booth there and there's a

(Testimony of Frederick C. Miller.)

spot on the quarantine island and that ship had gone in at least half her length. From on board the ship we could take a range of the—there is absolutely no question about the ranges. That ship went in Monday at least half her length and I would say more. I would say nearly three-quarters of her length. You couldn't judge exactly to a foot. I told that man distinctly that he'd lose his ship if he didn't hold her there and he said come back with the lighters. I came ashore, I think, about four o'clock Tuesday morning.

Q. When did this conversation take place?
[1649—815]

A. Right at the rail of the "Celtic Chief."

Q. When?

A. On Tuesday morning just as I left the boat, say about half-past three. I got in about four o'clock. When I got in to the dock we started the gang discharging the lighters and instead of sending them right back we sent a gang of men up to the yard and got down our steel hawsers and our blocks and our big anchor. It took us up to about half-past four or five o'clock. Took us about that time to get all that equipment and gear aboard of the "James Makee." We then went out to the "Celtic Chief."

The COURT.—How long did it take to get outside?

A. It took me about three-quarters of an hour to get outside. When we got to the "Celtic Chief" we went around on her port quarter and dropped our big anchor and sent a surf line in to the "Celtic Chief" by the captain of the "Mokolii," and the boat's crew

(Testimony of Frederick C. Miller.)

and the "Celtic Chief" took that surf line and made it fast on her bitt, on her port quarter, and then the captain of the ship or Pilot Macaulay, I don't know which, ordered it let go and he told—by the bye, by way of interpolation, this surf line was the line that we used to haul our big cable, our steel cable from the "James Makee" to the ship. They let that go on the "Celtic Chief," either the pilot—either Pilot Macaulay or Captain Henry, I don't know which, but the captain of the "Mokolii" took it and we hauled it in, and the captain of the "Mokolii" came back and reported that Captain Henry was in a rage because we hadn't come back with lighters and he didn't want anchors.

Mr. OLSON.—Move to strike the last statement of the witness as to what the captain of the "Mokolii" said, on the ground it is hearsay and likewise all the testimony [1650—816] of the witness as to the letting go of the hawser and all the statements of other persons as to things which the witness himself did not observe.

Mr. WARREN.—I'd like to move to strike on the ground that this testimony with regard to the surf line is hearsay, it appearing that he was not there himself and was reported to him by the captain of the "Mokolii."

The COURT.—The hearsay statements may be stricken.

A. I saw that line made fast and I saw it let go, myself. He couldn't—

Mr. STANLEY.—Just a minute, Captain.

Mr. MAGOON.—What was the next thing that you did, Captain?

(Testimony of Frederick C. Miller.)

A. It was about dark when that surf line was let go and I waited until the following morning at daylight, and just after daylight I took a boat and went aboard the "Celtic Chief" myself; saw Captain Henry and Pilot Macaulay, both of them were very angry because we hadn't come back with lighters to finish the lightering of the ship. I told Captain Henry then that it was suicidal for him, as far as the ship was concerned, to lighten up without something astern to hold it and that personally I did not care to become a part to his ship being lost. At that time I thought that the ship was insured with the British Lloyds and we have an understanding with them to do our best for their ships. I have regretted since that she was not. He didn't want any anchors and he didn't want anything else and I told Captain Henry then, thinking that the ship was insured in the Lloyds, I said to him, "Captain, all right. I'll take my boats and the anchors and go ashore and if your ship is lost and stays here on the reef, I'll see to it you lose your certificate." I told [1651—817] him that right on his own deck. I told him, furthermore, we had lightened the ship and had all the power boats pulling on the ship hard, the "Mauna Kea" had parted her twelve-inch—

Q. Do you know that, Captain?

A. I do know that they all pulled hard. I know they pulled like hell on that boat and parted a new twelve-inch line. I saw it. I was on the deck. Pulled hard and dented her mast. The dents are on the mast to this day. There is no question about it. Monday they had the "Intrepid," the "Helene," and

(Testimony of Frederick C. Miller.)

the "Mauna Kea," and the "Mauna Kea" had parted what I think to be a twelve-inch line, and pulled as hard as ever I saw a ship pull with her propeller on anything, and snapped it and never budged the ship. And yet the man wanted to continue lightering the ship and let her go further on the reef. And I recalled this fact to him and I said to him, "We're perfectly willing to go ashore." And then he crawled. I asked him why did you let go that surf line last night and he told me he didn't like the position, and I told him, "If you don't approve of that position we'll change that position and put it in any position that suits you." And they talked a little while among themselves and they said, "Place that anchor astern and heave up her purchase." So that took considerable shifting and went directly astern at a point that they indicated and dropped it there. From that time on we never had any friction with them. We rove in our purchase, hauled it taut and during the forenoon, sometime, I think, I don't judge exactly, but I should say about eleven or twelve o'clock they cut the "Intrepid's" line, one of the crew of the "Celtic Chief" cut the "Intrepid's" [1652—818] steel hawser and sent her adrift and the German cruiser, "Arcona," came in and took the position right over our anchor. Her stern was right over our anchor buoy. The commander of that ship ordered me to take it up as it was in his way of the "Arcona," in his broken English that I have heard, "Take it away! Take it away! All right." And we didn't take it up and he ran his line in and started pulling on her, I should

(Testimony of Frederick C. Miller.)

say, as near as I can remember, along about one o'clock, twelve or one o'clock—somewhere about that time. The "Arcona" started pulling on her and she broke a steel hawser. Then she borrowed the ship's steel hawser; used that on one side and had one of her own on the other. She took—one of the steel hawsers from the "Arcona" was taken in on the "Celtic Chief" starboard midship chock and the other went on her port after main deck chock. They got them fairly taut and then there was a—the Inter-Island boats had been pulling her all the afternoon during the high water. They had been pulling hard all the time on her, on the "Celtic Chief." Along in the evening, about dusk or just before, the German, the commanding officer of the German cruiser, Captain Henry of the "Celtic Chief," Pilot Macaulay, and, I think, Captain Haglund, I'm not sure, had a consultation in which—

Mr. OLSON.—If the Court please, if the witness is about to relate what the conference was and the conversation that went on in that conference, I think it should appear first that the witness was there and heard.

A. I was. I heard the conference. I'm not sure about Captain Haglund being present, but I was present and heard what was said because they were standing right alongside [1653—819] me. They inquired from the pilot what time it was high water and he hunted around for a newspaper and he got the morning's paper from somewhere and he looked in that paper and he said, "Well, it's high water along about one o'clock to-night," which would have

(Testimony of Frederick C. Miller.)

been Thursday morning. It was arranged then that the commanding officer of the cruiser, between him, Pilot Macaulay, and captain of the ship, that it would be useless to pull on that ship until just before high water. If I remember, the hour was stated about an hour before the hour of high water, would be a good time to start to pull. There was an arrangement—this commanding officer made some sort of an arrangement with them by which he would leave aboard the vessel—

Mr. WARREN.—At this same interview?

A. At the same time, at the same consultation.

Mr. OLSON.—And you heard it?

A. I heard that. I saw this arrangement. It was a sort of horse pistol. This is a matter of two years ago and what I'm stating here I want to state facts as I saw them. As near as I can remember, the instruction of the commanding officer was when she would show one, the captain of the "Celtic Chief," desired him to pull; two stars, as he put it, two shots signified that the ship had started, and three for him to go ahead full speed. I don't know what the arrangement between Captain Haglund and the pilot was regarding the Inter-Island boats, but the night before we had watched them. She always carried one red light in the starboard mizzen rigging all the time she was there.

Mr. WARREN.—I desire, if the witness is trying to argue out what the signal had been because of previous [1654—820] conditions—

Mr. MAGOON.—You were saying that you didn't know of the arrangement between Captain Haglund.

(Testimony of Frederick C. Miller.)

A. I inferred—

Mr. WARREN.—I object to that, being inference of the witness and not his knowledge.

Mr. OLSON.—Same objection.

The COURT.—Objection sustained.

A. We hove our purchase taut in the afternoon.

Mr. MAGOON.—Before you go on to that, did you know of any arrangement as to putting up red lights between anybody?

A. I can't swear. No, I can't say that I heard that arrangement between Captain Haglund and the captain of the ship or the captain of the "Celtic Chief" as to the meaning of that second red light.

Mr. OLSON.—Now, if the Court please, I object to counsel exchanging here in the examination of this witness.

Mr. WEAVER.—What happened after this conference?

A. After—

Q. Withdraw that. Was that all about the conference, all that happened there?

A. After that conference the commanding officer went aboard to his ship and Captain Haglund went away. I don't know where Captain Haglund went. I think on board one of the Inter-Island boats. I can't say where he went. He went away. We heave our tackles in the main deck. We hove them taut that afternoon to test them to see if anything was going to break. About eight o'clock or after our men had had their supper I [1655—821] told the men to get busy with those tackles and keep a steady strain on them and saw if they could get anything.

(Testimony of Frederick C. Miller.)

Along about, I should say about eight or half-past eight, the captain of the "Celtic Chief" came to me and said that Captain Haglund had sent them some sandwiches. He had a lot of sandwiches. She was a hungry ship, any way. We got nothing to eat off her except what we got from the Inter-Island people. And they invited me down to the captain's room to have some of this pie and sandwiches. I said, "All right, Captain. I'll be with you in a minute." I went right on deck and told the boys, "You keep heaving."

Mr. WARREN.—You went there?

A. I went down on the main deck and told our boys to keep on heaving. I could get to the captain's cabin either from the main deck or through a pilot-house. I stayed there eating some of the sandwiches and some of the pie. The pilot said, "Now, if we only had a glass of beer, if Haglund had only had sense enough to send us a bottle of beer it would be all right." I said to him, "Pilot, you wait about half or three-quarters hours and I'll put you aside the German cruiser and we'll get some beer from her." They laughed at that as a joke.

Mr. OLSON.—I move to strike that statement to Captain Macaulay and Captain Henry on the ground it is a self-serving statement.

A. I went out on the deck every once in a while to see those men then I'd go back in the cabin there with the pilot and the captain. Stayed there and ate lunch and telling stories. Finally, when I got out on deck one time I met one of the men. He said, "The ship is [1656—822] starting. We're com-

(Testimony of Frederick C. Miller.)

ing." "Slack on our lines," I said, "little, very little." He said, "You come here and look at the range." I went there to see the range and thought she was moved a little. So I told the boys to keep on heaving away and I'd show them a trick or two before morning. We went back into the room. The pilot was telling us a good story and she felt a jump and the captain jumped up and he said, "Pilot, she's moving," and he says, "How the hell can she move? They are not pulling. They won't start to pull until they get the signal."

Mr. OLSON.—Move to strike the statement of Pilot Macaulay on the ground it is hearsay, incompetent, irrelevant and immaterial.

Mr. WARREN.—I would like to enter my objections to the same.

Mr. OLSON.—I'll withdraw my objection, and Mr. Warren does the same.

Mr. WARREN.—Yes.

Q. Now go on.

A. Captain Henry said to him, "Why, this man's men is pulling," pointing to me. Macaulay said, "Sit still, sit still. He's only tightening his tackles. He can't get her off." So the captain sat down again. He jumped out of the chair, of the seat. About, I should say, anywhere from ten to twenty minutes later on, I cannot say exactly the time, she made another jump. You could feel it then strong and that time the pilot jumped and Henry jumped up and started to run to the companion-way. When they got up on deck Macaulay went and looked over the stern and he said, "Bill, your anchor is dragged,"

(Testimony of Frederick C. Miller.)

and he looked over the stern and he said, "The anchor isn't [1657—823] dragging; the ship's coming off; look at the 'Arcona.' See where she is!" and we'd shortened up the distance at least one-half, the probability is more. Then I said to him again, "Look on your range lights," and he looked at the range lights and the order was given, "Fire your fireworks and up your second signal light." And everybody was flying around there pretty busy chopping lines and letting go hawsers. Before this, the man, I think it was Dick Clarke—I'm not sure. Dick Clarke, I saw him out on deck and then the Kanakas were shouting, "She's coming! She's coming!" and I didn't want the captain or Pilot Macaulay to know that the ship was coming off.

Q. Where was that in regard to this conversation you have just related?

A. Just before she had fetched the second bump. I'd run out in the meantime. I knew the ship was moving, I could hear the Kanakas plain. I was afraid that they would hear it.

Q. How long before this time you rushed out did you tell these men to shut up?

A. Oh, I had gone out between the two bumps after the first bump when I got Macaulay and the captain quiet again, seated down telling stories again and I had gone out in the meantime, then I come back. I'm frank to tell you I wanted them to stay down in the cabin. I wanted that ship to come off without their knowledge.

Q. Well, when you went out on deck all this was doing, describe what you saw.

(Testimony of Frederick C. Miller.)

A. Well, it was not something—it's a scene that occurs just once probably in a man's lifetime, for this reason, there are no two salvage operations that's just [1658—824] alike, and I have never witnessed a scene just like it. Each man was busy with the safety of his own property. Captain Haglund had quite a large number of men aboard and they were busy attending to their lines and clearing. Some of the lines was cut and some let go. The "Arcona" was busy getting out of the way because she was afraid we'd bump her and we came very near doing it, too. Our own lines we was afraid would humbug us. We had trouble in getting the shackle out of the chock. We had a launch alongside and that launch was fast to a scow that had a hoisting engine. Now, that was fast and we didn't want to tow that to sea. Some of our men were busy with that, taking care of our launch, and it was some, I should say fifteen or twenty minutes, more or less; very much excited. The ship cleared and the "Arcona" pulled her away.

Q. Was any other vessel pulling her away?

A. I think the "Mikahala." I'm not certain. I think the "Mikahala" possibly saved the "Arcona" from a bump.

Q. Why did you want to keep the fact that you were pulling the "Celtic Chief" quiet from Captain Henry and pilot Macaulay?

A. I'll tell you why. We'd started to work on that job in the morning contrary to my own good judgment. In the first place we had considerable difficulty in getting Captain Henry to adopt the plan

(Testimony of Frederick C. Miller.)

of putting an anchor down and the "Helene." They had made an arrangement without, practically ignoring me, and if the "Celtic Chief" came off they had known that the "Celtic Chief" was being pulled off by the Miller Salvage Co.'s equipment they would have given those signals to the German cruiser to begin pulling and they would have [1659—825] given those signals to the German cruiser to begin pulling and they would have shared in whatever glory and so far expense. We'd have to share in the credit of pulling her off. I wish, your Honor would permit me to say by way of interpolation that the German cruiser had absolutely no more to do with the actual pulling of that "Celtic Chief" than you.

Q. Why do you make the statement about the "Arcona" that you have just made?

A. Why did I make that?

Q. On what facts do you base your judgment?

A. I'll tell you why, Judge Weaver. The newspapers next morning when the "Celtic Chief" was floated and the "Arcona" had her off and she began to send up a lot of search-lights.

Q. Search-lights?

A. Rockets and search-lights and the whole business of the "Arcona" was on an —— plan.

Q. You must have some reason for it.

A. I don't know who first made that claim, but it was current here in town that the "Arcona" pulled the "Celtic Chief" off, and we thought that inasmuch as we had worked night and day for three days and had spent a great deal of money and was instrumental in pulling her off, to say the least, we thought

(Testimony of Frederick C. Miller.)

we should have some credit.

Q. What do you mean by "we."

A. "We" means the Miller Salvage Co.

Q. Why did you describe the operation of the "Arcona"?

A. As an ——— because I'll tell you. She came near being bumped by the stern and we got them there and they couldn't take her after we got her [1660—826] afloat and they had to turn her over to Captain Haglund to bring her in to an anchorage. I was there, a witness to that.

Q. How about the work of the "Arcona" on the "Celtic Chief" while you were pulling on the anchor and the time you went down to the cabin?

A. As I have stated, the time I should say was about one or two o'clock, between one and two o'clock, as near as I can remember, the time she took her position there eleven or twelve o'clock. After one or two o'clock she had one hawser. There's no question about that and she broke the hawser.

Mr. STANLEY.—Little more slowly.

A. Then they put the second line on and fooled around there hauling that taut and getting them adjusted just to suit their ideas as to how it should be.

Mr. WEAVER.—Then what did they do?

A. They tightened those lines that afternoon but that evening they were not hauling up to the time the "Celtic Chief" came off, as far as I could observe from the "Celtic Chief" and I was watching pretty close.

Q. How thick were those lines?

A. Well, those lines, that is the line they broke,

(Testimony of Frederick C. Miller.)

was a steel line. It wasn't very big, I should say. Giving you my best judgment, Mr. Weaver, I should say between an inch diameter; not very thick.

Q. Could those lines pull that vessel off?

Mr. OLSON.—I object to the question on the ground it does not appear the witness is qualified to answer. There is no foundation laid.

Mr. WARREN.—Same objection.

The COURT.—Sustained. [1661—827]

Mr. WEAVER.—How long have you been to sea, Captain?

A I have been to sea, with the exception of the seven years that I have been in Honolulu, with that exception, and that has been more or less at sea, since I've been here, about forty years. All of the time at sea with the exception of seven years; part of this has been sometimes in sea.

Q. And what part of the world have you had experience and what kinds of vessels?

A. I've worked on salvage ships, I've run the blockade, and I've handled merchant ships.

Q. What did you mean by running the blockade?

A. I ran the blockade for the Cubans and in the Asian waters.

Q. What experience have you had in salvage work?

A. I've worked on a good many vessels on the Atlantic Coast. Not many here.

Q. How many years?

A. Oh, I should say eighteen or twenty years, at least.

Q. How many here?

(Testimony of Frederick C. Miller.)

A. The only ones I have worked on here that I can recall offhand, the bark "Ernest Ranier," the "Alexander Black," the "Celtic Chief," and the "Helga."

Q. In the "Celtic Chief" operations did you have any experience with cables or ropes? A. Yes.

Q. What experience have you had with those?

A. I've had this experience and I might state that it's one—I don't know if you would call it a fundamental law, but it's a fact that a ship ashore the first thing to do before you lighten her cargo is to hold her where she is before you start lightening any cargo. Now, that's a fundamental fact or it's a law of [1662—828] salvage. We have found also by experience, and it's not alone my own but that of the best salvage companies throughout the world, that heavy anchors and purchases properly applied is infinitely superior for the purpose of pulling off a stranded ship, to any steamers or any number of steamers propelling with a propeller.

Mr. OLSON.—Object to the testimony and move to strike, that is, the last part of the testimony with reference to the superiority of purchase tackles and anchors over towing steamers and steamers pulling by means of propellers, on the ground that it is incompetent, irrelevant, and immaterial; furthermore, that it is not responsive, no foundation laid; furthermore, the witness is not qualified to answer and furthermore that it is hearsay.

Mr. WARREN.—Same objection, your Honor.

Mr. MAGOON.—On the ground that it's not responsive, we're willing to have it stricken.

Mr. OLSON.—That's the last statement with

(Testimony of Frederick C. Miller.)

reference to the comparison of purchase tackles and anchors and steamers pulling with their propellers.

Mr. WEAVER.—I'm asking you a line of question, how much you know about these things that you're going to testify to by and by; therefore, when I ask you a detail question, confine your answers to the question. We're first getting your experience and what you know about these things in general.

A. What experience have I had with pulling ships off with tackles—is that your question, Judge Weaver?

Mr. WEAVER.—Yes. Question withdrawn. Captain, before you came into this country, what experience, if [1663—829] any, had you with vessels in which you used cables or lines in the operation of salvage?

A. I had seven years' salvage experience right in New York.

Q. What was that experience? Give us an outline of it.

A. As I stated before, no two salvage operations is just alike but that tackle and that anchor it was a rule among those salving ships—

Mr. WARREN.—I object, may it please the Court.

Q. What did you do?

A. I always laid an anchor and tackles and pull on it just the same as I did with the "Celtic Chief."

Q. In those seven years' experience in New York.

A. Yes, sir.

Q. What kind of cables did you use?

A. Sometimes used wire hawsers. In the early days we used manilla hawsers.

(Testimony of Frederick C. Miller.)

Q. Well, you've used wire hawsers?

A. In recent years.

Q. What experience have you had?

A. I worked with the French ——— pulling her off. There was pulled.

Q. What did you pull her off with?

A. We pulled her off with anchors and cables laid from the anchors to the ship and purchase and hove off just exactly as on the "Celtic Chief."

Q. Have you had occasion to note the strain on cables?

A. There is no method by which people which work on a salvage job, there's no method known to me by which a man can determine the strain of that cable. When we use a cable we buy it upon the maker's guarantee that it's up a certain tensile strength or breaking strain, as we call it. [1664—830]

Q. Do you know anything about breaking strain of cables the size the "Arcona" had to the "Celtic Chief"? A. I do.

Q. Have you had any experience with such cables?

A. I used it there and the same cable was used on the "Manchuria."

Q. Have you had any experience to tell how strong they are?

A. I only have the maker's guaranty for those and they are one hundred and twenty tons breaking strain.

Q. One hundred and twenty tons for what purpose?

A. You could put that on without breaking.

Q. It would lift one hundred and twenty tons?

(Testimony of Frederick C. Miller.)

A. Yes, lift one hundred and twenty tons.

Q. This line running from the "Celtic Chief" to the "Arcona," you noticed it, did you not?

A. I saw a steel hawser.

Q. Do you know the lines running from the "Arcona" to the "Celtic Chief," those two lines, do you not? A. Yes.

Q. Were those the lines you were talking about?

A. I'm talking about my own lines. I don't know anything about other lines, what the "Arcona's" strains were.

Q. In your experience on the Jersey Coast that you have spoken of, was there any other assistance given other than the cable and anchors?

A. They always used a boat to take care of her when she was afloat.

Q. Did they use boats while they were working with the anchor and cable?

A. Not as a rule. When you are pulling a boat off the beach the tackles will pull just so far.

Q. Have you had any other experience? [1665—831]

A. I had the steamship "Don" on the Bramah's Reef.

Q. How was she pulled off?

A. By anchors and purchases in the same manner.

Q. What was done with steamers?

A. Had a tugboat standing by and just as soon as the ship was taken off the reef the tug has got to take her in tow, because there is nothing to hold her.

Q. Were there any vessels pulling her?

A. No.

(Testimony of Frederick C. Miller.)

Q. Any other experience?

A. Yes, steamship "Bellivere."

Q. What means were used?

A. Anchors, only we used manilla hawsers, used fourteen-inch manilla instead of steel.

Mr. OLSON.—If the Court please, I submit all this is incompetent, irrelevant, and immaterial. It doesn't appear that the conditions are the same.

Mr. WARREN.—I'd like to say at this point that the purpose was to qualify the witness as an expert so as to permit him to qualify as to the tensile strength of lines.

Mr. WEAVER.—Do you know, can you say, whether or not these "Arcona" lines to the "Celtic Chief" were strong enough to pull her off the reef in that condition she was on Wednesday afternoon?

Mr. OLSON.—I object to the question on the ground that it appears from the testimony already given that the witness is not qualified to answer.

Mr. WARREN.—I want to have my same objection on the record.

Mr. WEAVER.—Do you know the tensile strength of the cable the size of those cables from the "Celtic Chief" to the "Arcona"? A. I do not.

Q. Can you determine them as a seaman by any means, a man [1666—832] with your experience. How do you determine? Can you determine?

A. Yes, I can determine, yes.

Q. How?

A. I saw the line from the "Celtic Chief" that ran to the "Arcona." It was a good line.

Q. Have you any opinion about the strength of

(Testimony of Frederick C. Miller.)

that line? A. Yes, it had—

Mr. OLSON.—Just a moment.

Mr. WEAVER.—What is that based upon?

A. That's based upon my experience in buying other wire lines myself.

Q. What experience have you had in buying and using wire lines like that?

A. I've bought over \$6,000.00 worth right here in Honolulu.

Q. Before that?

A. I couldn't tell you. I used a good many lines. There is no question that was a good line, Judge.

Mr. WARREN.—I move to strike the answer as not responsive.

The COURT.—Motion granted.

Q. Have you had any experience before you came here with regard to the strength of such lines, cables, as the "Celtic Chief" had to the "Arcona"?

A. Yes, I've used them.

Q. Well, what is your experience from such use—do you know *the* tensile strength means?

A. The breaking strength of that line, of the line that she used from the "Celtic Chief."

Mr. OLSON.—I object to the witness testifying as to what the tensile strength means on the ground he is [1667—833] not qualified to answer.

A. It means, the tensile strength is the strain that the line will stand before it breaks.

Q. Now, then, what experience have you had with lines like the line running from the "Celtic Chief" to the "Arcona," here or elsewhere?

A. I've used them for salvage operations and I've

(Testimony of Frederick C. Miller.)

used them for towing.

Q. What can you say about their strength?

Mr. OLSON.—I object to the question on the ground it doesn't appear that the witness is qualified to answer, if the Court please.

Mr. WEAVER.—Withdraw the question.

Mr. WARREN.—I'd like to make the same objection.

Mr. WEAVER.—You have had experience with those lines, what experience have you had with them?

A. Had? I have had a good deal of experience with those lines. I don't claim and am not an expert on the tensile strength of steel hawsers.

Q. Are you able to determine the tensile strength of a steel hawser? Do you know as a seaman?

A. The method I have, and it's the only method known to me, is to take the maker's guaranty of the breaking strain. For every fraction of an inch of its diameter, according to the make of the line, whether it's plow steel or chilled steel, has a certain breaking strain and you buy that line, that sized line, with that guaranty and there's no method known to me to determine the strength of the wire by which they may be pulling on board the ship to test it themselves.

Q. Are there any scientific works that you have?

A. Yes; we have Trautwine and that shows the breaking strain, and most of us carry him with us.
[1668—834]

Q. Can you tell from that?

A. Not without consulting him.

Q. Can you by using Trautwine?

(Testimony of Frederick C. Miller.)

A. There is Hazel or there is Rodwell Catalogue.

Q. Now, in using your lines in the past, have you had any experience in determining the strength of these lines from the "Celtic Chief" with Trautwine in regard to such a case?

A. I can only answer that, Judge, by saying this—please excuse me for reiterating it again—the fact that when we take a line for a certain purpose, whatever that purpose may be, whether it's a steel rope for dragging a plow through a field, or whether it's for pulling stumps or pulling ships that's gathered, that strain, for instance, in our own work, that strain is dependent on the size of your blocks because the weakest link is what governs the whole outfit and we could get a wire hawser for the salvage operations. We want the best there is. We take the maker's guaranty. The users of wire rope don't know what the breaking strain is.

Q. Have you had enough experience of wire ropes to have any opinion, to know about the breaking strain of a wire rope when you see it? A. Yes.

Mr. OLSON.—Move to strike and object to the question on the ground that it calls for a conclusion of the witness and he is not qualified to answer.

The COURT.—Motion granted.

Mr. WEAVER.—Have you had experience with cables that have broken under a strain? A. Yes.

Q. Could you determine under those circumstances the strength of those cables or not?

Mr. OLSON.—Object to the question, the ground it calls for a conclusion of the witness, no qualification shown, [1669—835] and no foundation laid.

(Testimony of Frederick C. Miller.)

Mr. WARREN.—Same objection.

Mr. OLSON.—I withdraw my objection if it is clear that the witness is merely asked to answer yes or no.

Mr. WEAVER.—That's all.

A. No, I couldn't tell the strength of those cables to the "Arcona."

Q. I'm speaking in general, not to the "Arcona." The cables that were broken. You've said you had experience with broken cables. I'm speaking of broken cables similar to those to the "Arcona" and the "Celtic Chief" in the position that they were.

A. I've had experience, Mr. Weaver, and I want to state to you right now, it's something that I'm frank to tell you that I cannot give. There's so many factors that enter in the consideration. It may be burned in the galvanizing, the quality of the iron may be inferior and other things.

Q. Have you see any cables of the size of the cables between the "Celtic Chief" and the "Arcona" that pulled a ship off the shore?

Mr. OLSON.—I object to the question on the ground it is incompetent, irrelevant and immaterial; furthermore, that it's calling for a conclusion of the witness as to whether or not lines of that character did bring off any vessel; he is being qualified to answer, and furthermore, he has said he isn't qualified to answer.

The COURT.—I feel rather in doubt to allow this question. [1670—836]

Wednesday, August 23, 1911.

Q. On the evening of Wednesday before you went

(Testimony of Frederick C. Miller.)

down to the cabin and had this talk with Captain Miller and Macaulay, did you or did you not notice the lines of the various vessels attached to the "Celtic Chief"? A. I did.

Q. What vessels were attached to the "Celtic Chief"?

A. The "Mikahala" was attached on her starboard quarter. The "Mikahala" was attached to the "Celtic Chief" by a line running to the starboard quarter chock on the maindeck. The "Arcona" was fast by two steel hawsers, one running to the midship deck of the "Celtic Chief" on the starboard side and one on the after deck on the main deck, on the port side. The "Helene" came next.

Q. On what side?

A. On the port quarter. The "Likelike" was next on the port quarter. Those were the ships and the only ships that was attached to the "Celtic Chief" on that night.

Q. Before you went down into the cabin with the captain and the pilot, where were you on board the "Celtic Chief"?

A. I was in various parts of the "Celtic Chief." I was on her poop deck aft, on her main deck, at times even I would go up on the forecastle deck to see how the men, what they were doing there. I didn't confine myself to any one particular part of the ship.

Q. What was the position of these lines to these various ships for an hour or two prior to your going down to the cabin?

A. The lines to the "Arcona" were slack and hang-

(Testimony of Frederick C. Miller.)

ing in the water; the lines to the "Mikahala," "Helene," and "Likelike" were not as taut as when they were pulling at full speed at high water on the [1670 $\frac{1}{2}$ —837] night previous or that day.

Q. From what points did you observe?

A. I could see these lines clearly from the fore-castle.

Q. From where?

A. From the forecastle deck, anywhere. I could see them also from the poop deck aft. And by looking, and why I distinctly know the "Arcona's" lines were slack was because I helped two of our men with a capstan bar to lift her line on the main—

Q. How were they on the deck?

A. The "Arcona's" lines came on the main deck and went across to the ship's mainmast through a midship chock and in crossing that deck we took it, crossed right across the deck. When our men would lift the block off of that line—it would catch on that line and we would have to take a capstan bar and lift that line off so the block would slide under it.

Q. Why did you observe the other lines?

A. I just observed the other lines in a casual way from the poop deck. I could see them, as I said before, from the forecastle deck.

Q. What made you take notice of them?

A. I'd naturally take notice of what they were doing.

Q. Why did you take notice?

A. Because I wanted to know who was pulling that ship. It was my business to know what was pulling that ship.

(Testimony of Frederick C. Miller.)

Q. At any of the time were you near the capstan?

A. Yes, I was up there too.

Q. Were you on the other side of the ship, of the forecastle about where the bars would be?

A. Yes, I was on both sides of that. Our men was getting tired and had to have reliefs and sometimes the reliefs [1671—838] wouldn't come promptly. I was up there at various times to see that there was the proper amount of men on those bars, and from that forecastle deck you had a better view of all the lines except the Miller Salvage Company's lines than you had from any other part of the ship, barring the poop deck.

Q. How could you see those two lines?

A. Because those lines to the "Celtic Chief" from the "Arcona" didn't come in over her stern, but one of them came in near the midships on the starboard side and the other one came in on the port side and you could see them where they touched right down in the water.

Q. Could you see them if you were standing near the end of the bars of the capstan while the bars were pointing at the side of the ship?

A. If you'll allow me to explain. The forecastle deck of the "Arcona" was a little higher than the poop deck and a trifle higher than the midship-house amidships. She has a sheer, a little sheer to her.

Q. What is a sheer, Captain?

A. It's what you try to explain as an incline. It is a synonymous word for incline or plane. This forecastle deck only had around it two bars, iron bars about half or three-quarters of an inch diameter bar

(Testimony of Frederick C. Miller.)

rail, just as though this was a bar and this was another, the rail was just about as high as this (indicating). This was a three-quarter-inch bar.

Mr. WEAVER.—Let the record show that the witness points to the witness-box, the rails about as high as the top rail of the witness-box.

Mr. MAGOON.—Three feet, three inches.

A. About three foot, three inches. The end of the capstan bars from the capstan, came to within about four-foot, from [1672—839] three to four foot from this rail. About that. I seeing whether the men were heaving properly, I'd come out to this rail, look along the ship's side, because, as I said before, it was a special vantage ground from which to see anything. From that point of view you couldn't see the stern lines of the Miller Salvage Company's anchor, but you could see this line out on the starboard and that line.

Q. When you say, this line out on the starboard, what do you mean?

A. I mean the "Mikahala" line and the "Arcona" line.

Q. And on the port quarter?

A. We could see the "Helene's" lines.

Q. Did the gallows, you called it, in the middle of the ship, interfere with the view of those lines?

A. No, sir, because none of those lines came in amidships and the gallows was amidships.

Q. Was there a house?

A. There was a house and that was amidships.

Q. You have referred to the poop, what, if any, effect did the poop of the vessel have upon your vision of these lines?

(Testimony of Frederick C. Miller.)

A. It obstructed none of the lines except the Miller Salvage Company's and except one of the "Arcona's" lines went in possibly over her stern, but from the "Celtic Chief" you see them where they dropped down into the water.

Q. You frequently—were you on this poop deck before you went down to this consultation in the cabin?

A. I was frequently on the poop deck. As I said before, I didn't confine my position to any one position on the ship. I was on the poop deck; we'd go along the deck and go up on the forecastle deck and back again.

Q. I'm referring to a time about an hour prior to your [1673—840] going to this consultation in the cabin. How many times do you mean by frequently?

A. All the time, because when I went in the cabin with the captain to get lunch, I was there, I'd come out on deck, stay between fifteen and twenty minutes, go back and come out and go back and come out everywhere.

Q. From the cabin back to what place?

A. I come out on the main deck once and told the men to shut up and I told them to keep quiet.

Q. I'm speak prior—

A. I was on deck all the time.

Q. What deck?

A. On the "Celtic Chief" deck.

Q. You mean on the main deck?

A. As I said before, Judge Weaver, I wasn't in any one particular place, but on the main deck, on

(Testimony of Frederick C. Miller.)

the poop deck, and on that forecastle there.

Q. Can you tell me how many times you were on the poop deck, about an hour prior.

A. I was there a dozen times.

Q. During the hour that you were going over the ship continually, during any of that time did you take any notice of the lines to those various vessels?

A. Yes.

Q. What did you notice?

A. I was watching all their lines. As I said before, I wanted to know who was pulling on that ship. The lines to the Inter-Island steamers, the "Mikahala," "Helene," and "Likelike," were not slack; they were fairly tight, but I judge that their propellers was turning over dead slow. I don't know, I think they were turning over dead slow. Their lines were hanging in the water. There's no question about that. [1674—841]

Q. Prior thereto, at any time, had you observed those same vessels pulling? A. Yes.

Q. When? A. The night before. They started pulling the night before, on Tuesday night. Those ships started, pulling, by my watch, a little after eleven o'clock and they were taut during the day. Monday when the "Mauna Kea" were there, those ships were pulling and would pull those lines straight out of the water. When those ships were pulling the line would come up right out of the water.

Q. Would they touch the water?

Mr. OLSON.—I object to the question on the ground it's leading.

Q. How long did they continue?

(Testimony of Frederick C. Miller.)

A. As long as they were pulling full speed as you could see from the turn of the propeller.

Q. Did they continue that straight condition all the time?

A. They continued that straight position.

Q. While pulling full speed?

A. Yes. They'd lift those lines out of the water. When they slacked up apparently—for instance, when the tide began to fall and it was low water there was no sense for them to pull then, as you can understand. Their lines would slack up. The use of their propeller and the turn in the water showed that in the daytime. I couldn't see that at night clearly enough to swear to it, but I could see the lines dipping in the water.

Q. Now, then, Captain, you went down into the cabin and had this conversation with the pilot and Captain Henry?

A. Yes, I had lunch there with them.

Q. And then you came out and made some remarks to the crew about shut up?

A. Yes. [1675—842]

Q. When you came out did you observe those lines or not? A. When I came out we saw those lines.

Q. How could you see those lines?

A. I had no manual labor to do there myself. I wasn't pulling on lines or heaving on the capstan and all I had to do on that ship was to watch my own lines and the lines of the other ships. That was all I did there.

Q. When you came out and made this remark, on what deck did you go?

(Testimony of Frederick C. Miller.)

A. I came out of the cabin there on the main deck and shut our men up from shouting and making a noise.

Q. Did you not observe these lines?

A. I stayed on deck, I suppose, five or ten minutes.

Q. Did you or did you not observe those lines?

A. I did observe those lines.

Q. What did you notice?

A. I notice they were slack then.

Q. The same as before? A. The same as before.

Q. And how long did you observe them so?

A. There was no movement that was apparent to me from the time that they had started pulling that afternoon until the second red light and the three stars went up, on any ship.

Q. When you saw those three stars go up and the second red light, what did you see then?

A. By golly, they were all pulling to beat the band.

Q. Of course, with reference to these lines.

A. The lines were all taut. Almost the same time the order was given to cut away the various ships and I don't think that those ships pulled. It wasn't apparent to me that they'd pulled at all until the second red light and the three stars went up. [1676—843]

Q. On what do you base your statement?

A. Upon the condition of the lines on her, the appearance of the lines.

Q. What was the appearance of the lines just then?

A. They were hanging dipped into the water. Neither the "Arcona's" lines, neither the "Mika-

(Testimony of Frederick C. Miller.)

hala's" lines, neither the "Helene's" lines, nor the "Likelike" lines, were out of the water.

Q. And that's the condition up to the time of the signal of the three stars?

A. That was the condition when I saw it.

Mr. OLSON.—If the Court please, every other question Judge Weaver is leading the witness.

Q. When did you first observe the "Celtic Chief" moving seaward?

A. The first that I observed that was when one of my men, and just who it was I can't recall, whether it was Tom Mason, Captain Wiesbarth, or Dick Clarke, but one of my men told me that she was moving and said that they were getting a little on the hawser. Then they called my attention to the lights. "Look at the light, Captain, she's surely moving."

Mr. OLSON.—I move to strike that portion of the witness' answer which purports to state what some other person, one of his men, stated to the witness, on the ground it is hearsay.

Mr. WEAVER.—So far as the man's conversation, as to what the men said, I have no objection.

The COURT.—The motion is granted.

Q. Now then, when this remark was made to you, what did you see, Captain?

A. I saw that she had moved by a change of the lights.

Q. The lights?

A. The range lights that [1677—844] we had.

Q. And after that what did you observe, or at that time what did you observe about the lines of the "Arcona" and other vessels?

(Testimony of Frederick C. Miller.)

A. They were the same, slack, in the same condition that I have told you.

Q. What did you observe, if anything, about your lines, the Miller Salvage lines?

A. That *were* were getting a very little of them.

Q. Do you know that of your own knowledge?

A. I know that of my own knowledge because I saw the slack coming in a very little. I stayed there for a few minutes to assure myself to a dead certainty and then went back to the cabin for fear them fellows would come out.

Q. When you said very little, how much did you mean on the main hawser?

A. The main hawser. We only got a very little when we start, an inch at a time. That ship didn't come off with one great bound. As I heard here a man who I have never spoken to about the case. He testified inch by inch.

Mr. WEAVER.—If possible, try and confine your answers just to my questions; then we won't make these motions.

A. We got inch by inch on that main hawser.

Q. Can you give us an idea of how many feet or inches she gained on the main hawser at that time?

A. No, I cannot. I can tell you in another way. The range lights had opened about twelve inches clear. That I know for a certainty, but I didn't measure, but I didn't go and put a tape-line on our main hawser to see how many inches or feet.

Q. When you say the range lights moved about twelve inches [1678—845] apart, what did that indicate as to the movement of the "Celtic Chief"?

(Testimony of Frederick C. Miller.)

A. That indicated that the "Celtic Chief" had moved seaward just that much.

Q. How much?

A. The difference between the two range lights.

Q. How much was that in inches, if you can state?

A. That would be a problem of trigonometry. Whatever the difference was between the lights.

Q. You can't say in inches or feet?

A. I can only give you an approximate idea.

Q. What was it approximately?

A. When they first showed me I should say probable four or five feet. I've given you approximately now.

Q. Now then, after you observed this you just stated that you went into the cabin? A. Yes.

Q. When next did you observe these lines?

A. The next time was between or after the first bump. When she fetched that bump, I heard it as well as the captain of the "Celtic Chief" and knew what it meant because if a ship comes off one inch—

Mr. OLSON.—I object to it and move to strike on the ground it is irresponsive.

The COURT.—I'll strike out that portion of the answer regarding Captain Henry's observations.

Mr. OLSON.—Now, just a moment.

The COURT.—And what the bump indicated should be stricken out.

Q. What did that bump indicate, Captain?

Mr. OLSON.—I object to the question on the ground the question has been already asked and answered. [1679—846]

Q. How long after that bump, Captain, how long

(Testimony of Frederick C. Miller.)

was that after the time when the—when you thought that the ship was coming off, went out, was this bump that you spoke of. You have just been talking about this bump.

A. Yes. I'm trying to remember, Mr. Weaver. I'm trying to remember what time and I can't tell you exactly. I can give you only an approximate idea. I would say probably from twenty minutes to a half hour.

Q. And between those two times what had you been doing?

A. Between those two times I was in the cabin eating sandwiches and pie.

Q. Had you been out of the cabin during that time?

A. I came out between the two. I came out of that cabin at least a half a dozen times. I came out distinctly after the first bump. I came out to shut our men up.

Q. You came up to shut up the first time?

A. I had to come out and tell them between the bumps. I couldn't talk native and I had to tell one of my men that spoke native to keep them fellows quiet.

Q. Between these times, twenty minutes or a half an hour, how many times had you been out of the cabin? A. Between the two bumps?

Q. No, between the time that the captain told you the ship was coming out and the time you felt that first bump.

Mr. OLSON.—I object to the question on the ground it has been asked and answered.

(Testimony of Frederick C. Miller.)

The COURT.—You refer to the number of times?

Mr. WEAVER.—That's all.

A. I don't think I came out on deck at all.

Mr. WEAVER.—Q. You haven't answered the question properly. I'm going to ask the question between the time when the [1680—847] officer told you that the ship was coming off and the time when you felt the bump and you came out on deck that you were out on deck a half hour or so, how many times?

Mr. OLSON.—Now then, if the Court please, that may lead to a confusion of the record because it speaks of the officer.

Mr. WEAVER.—I amend the question. Person.

A. I can't tell, Mr. Weaver. I came out on deck in the interval between their first telling me, then I went back in the cabin, then to the best of my recollection I didn't come out again at all after the first bump.

Q. Now then, when you came out after this first bump, what were the condition of these lines to the various vessels? A. They were slack.

Q. What was their condition with reference to the water—were they the same as they had been just prior to you coming off?

A. Practically the same condition, probably a little slacker, if anything.

Q. At what time did you observe this condition, Captain, after that?

A. I didn't observe them again after that until after the second bump.

Q. Until after the second bump? A. No.

(Testimony of Frederick C. Miller.)

Q. Up to the time of the second bump, Captain, what were you doing with the Miller Salvage line, if anything?

Mr. OLSON.—I object, if the Court please, on the ground that the record shows on the witness' own testimony, shows he was in the cabin during the time of the first bump until the second bump.

Mr. WARREN.—I make the same objection, your Honor. [1681—848]

Mr. WEAVER.—I withdraw the question. After the first bump, Captain, up to the time of the second bump, where were you?

A. After the second bump?

Q. After the first bump up to the time of the second bump, where were you?

Mr. OLSON.—I object to the question on the ground it has been asked and answered.

A. I was in the captain's room.

Mr. OLSON.—I withdraw the objection.

A. I was in the captain's room on the "Celtic Chief" with the exception of the one time between the two bumps that I have already stated that—

Q. After you came on deck, at the time of the second bump, did you observe these lines?

A. After the second bump?

Q. Yes. A. Yes, sir.

Q. Now, at that time what agencies were in force, if you know, with regard to pulling on the "Celtic Chief"? A. After the second bump?

Q. Yes, and you came on deck?

A. And I came on deck? The "Celtic Chief" was afloat and that line was hanging straight up and

(Testimony of Frederick C. Miller.)

down her stern. The "Celtic Chief" had lessened the distance to at least one-half, between her original position and the "Arcona." The "Helene," "Likelike," and "Mikahala," I think, were pulling almost simultaneously. The order were given by Inter-Island representatives to cut away the lines, cut away and let go the lines and the "Arcona" pulling her out to sea.

Q. When you felt the first bump, Captain, and went out on deck, what agencies were pulling on the "Celtic Chief"? [1682—849]

Mr. OLSON.—Object to the question on the ground it has been asked and answered, if the Court please.

A. Miller Salvage—

The COURT.—Pardon me. I'll allow the question.

A. Miller Salvage Co.'s lines.

Q. What other agencies, if any?

A. I didn't notice any. I didn't see any other agencies pulling.

Q. Weren't the "Likelike" lines there?

A. The "Likelike," the "Helene," and the "Mikahala," had a strain on all their lines, though I don't know, I can't swear what they were doing aboard those vessels because I wasn't there. They apparently were turning over dead slow. The lines were in the water.

Q. And the "Arcona's" lines?

A. The "Arcona's" lines was in the water and the "Mikahala" wasn't pulling.

Q. When you came on deck after the second bump,

(Testimony of Frederick C. Miller.)

can you tell the condition of the lines to the "Arcona"? When you first came on deck?

A. When I first came on deck they were slack. They were slack as that with a bight. You couldn't see them at all; they were hanging flat down on the water the same as the Miller Salvage Co.

Q. When you first came on deck, what was the condition of the lines of the "Mikahala," the line of the "Mikahala"?

A. I didn't observe that so closely because I came on deck after that second bump. The orders were given after those three signals and the second red light and almost right immediately afterwards the orders was to cut adrift because, as I stated before, we was almost on top of the "Arcona."

Q. Now, Captain, did you see any signals after you came [1683—850] on deck that day?

A. Yes, I saw the signals given.

Q. How long after you came on deck were those signals given? A. Not ten seconds.

Q. What signals were given?

A. The second red light in the rigging and the three stars.

Q. After that, prior to these signals, what were the conditions of the lines to the "Helene," if you know?

A. I don't know.

Mr. WARREN.—At what time?

Mr. WEAVER.—Just prior to the signal, did you know the condition of the lines to the "Likelike," just immediately prior?

A. No, I don't. I was down in the cabin just immediately prior.

(Testimony of Frederick C. Miller.)

Q. You came up on deck?

A. I came up on deck and in ten second, I should say, as near as I can remember, it just took the pilot the time he used going from here to where Mr. Olson is sitting and sing out, "Set up that second red light and throw off three balls." About ten seconds.

Q. And subsequent to that? A. If there were—

Q. Subsequent to that second signal, what happened to the lines of the "Arcona," if anything?

A. Mr. Weaver, if you'll allow me to put it my way, I have testified repeatedly that the distance between the "Celtic Chief" had shortened up one-half the distance. Now, her lines must have been that much slack, much more slack than they were before. They weren't pulling any on the "Celtic Chief," that's a cinch, and they weren't hauling in on the "Arcona."

Q. Do you know how much freight the "Celtic Chief" had on [1684—851] her that night? Do you know how much freight the "Celtic Chief" had on her?

A. I only know what I'm told, what I was told she had. I don't know of my own personal knowledge.

Q. I'll ask you, Captain, assuming that the "Celtic Chief" had a freight cargo of 1600 pounds, that she was an iron sailing vessel of 789 gross tonnage, the tonnage under deck, 1652; net tonnage, 1709. Her dimensions, length, 266.8; breadth, 39.5 feet; depth, 92.3 feet; her moulded depth, 24 feet, 7 inches, and ask you if you had observed that such a vessel was ashore on the coral reef west of the channel at Honolulu in a position, bow-on to the shore, approximately

(Testimony of Frederick C. Miller.)

at right angles, and was under condition of wind and weather and sea which you have observed, would the slip, appearing to be more or less on the coral reef and with her bow two feet out of water, her bow about, her bow out of the water above the water line, as you had observed it, and assume that a triple purchase tackle was rigged on the deck of the "Celtic Chief" from the foremast to a position aft, made up of the first tackle of large triple blocks through which was rove a seven-inch fall, and into the luff of this was rigged a second purchase tackle, rigged into the triple block with five-inch falls, manilla rope and the falls of the second purchase tackle made fast to a third purchase tackle made up of three and one-half inch manilla rope, rove into triple blocks, and the fall of this last tackle carried to a large capstan on the forward deck, which you observed, and that there was sixteen men at work on such capstan, and assuming this apparatus was attached to a seven-ton anchor with a wire cable which you saw, and that the anchor was resting on the [1685—852] sea bottom about a thousand feet astern from the "Celtic Chief," would you say that such apparatus was sufficient one to use to pull the "Celtic Chief" off the reef under the conditions as you saw them, if the connecting cable would hold and the anchor would not come home when the strain was put on.

Mr. OLSON.—Now, then, I wish to interpose an objection, if the Court please, on the ground that the witness does not appear to be qualified to answer; secondly, on the ground that the question assumes certain conditions within the observation of the wit-

(Testimony of Frederick C. Miller.)

ness to which he has not testified; thirdly, that the question assumes certain facts to exist or to have existed, concerning which there is no testimony on the record at all; and in the third place, on the ground that the question is incompetent, irrelevant, and immaterial.

Mr. WARREN.—We wish to enter the same objection, if the Court please.

Mr. OLSON.—I ask the reporter to note another ground of objection, and that is, that the hypothetical question which has been asked does not fully and sufficiently describe the facts and conditions existing to enable the witness to give an intelligent answer which will be of any value to the Court.

I'll ask counsel to admit of record, in order that we may not have to go back over this whole record to find out, I'll ask counsel to admit that the lines which were used in those tackles were not larger than a seven-inch for the first tackle, a five and a half for the second tackle, and a three and a half for the third tackle, in circumference.

Mr. MAGOON.—We refuse to make any such admission. [1686—853]

Mr. WEAVER.—I'll withdraw the question for the present. Captain Miller, do you know the size of those three tackles? A. Yes.

Q. What was the size of the three tackles?

A. The first one was seven inches, diameter.

Q. What was the second one?

A. Seven inches, seven inches circumference, excuse me. And the second one was five inches, circumference. All this that I'm giving now is circum-

(Testimony of Frederick C. Miller.)

ference because we apply to manilla rope—I may say, by way of *interlopation*, we speak of steel wire by diameter. The third one was three and a half or three and a quarter. I have forgot.

Q. What was it? A. Manilla rope.

Q. What rope was this, new or old?

A. Brand new rope, all of it. Never been used before.

Q. Do you know the size of this cable? A. Yes.

Q. What was it?

A. That was a two and a quarter diameter, plough steel cable.

Q. How do you spell that?

A. P-l-o-u-g-h. 21¼ plough steel and, with your Honor's permission, if I may amend my statement. On yesterday I spoke of the breaking strain of that, one hundred and twenty and I believed that. Reference to Roebling, and Roebling was the make of the rope, that it was 186 ton. I was speaking from memory of the breaking strain of that rope. (Witness consults book.) This is Kent Mechanical Engineer Handbook, and I may say that most of these are taken from Roebling, they are considered standard people. 186 tons. [1687—854]

Q. What was the make of this cable that—

A. Roebling.

Q. Roebling rope. Are there tables with regard to that particular rope?

A. Yes. There are tables that Roebling publishes and this Trautwine, Kent, and Kidder derive and put in their mechanical engineer's, civil engineer's

(Testimony of Frederick C. Miller.)

handbook; use Roebling as their authority for the breaking strain.

Q. Did you have a hawser attached to the cable and between the large purchase and large cable?

A. We had a twelve-inch manilla hawser attached and two parts of an inch and a half diameter, steel rope light wire.

Q. How long was that hawser used in connection with the cable?

A. The hawser and two parts of twelve-inch manilla hawser of the steel hawser was used to lengthen out our main hawser. When we had dropped our anchor and found that the main steel hawser came only about, I'll give approximately the distance, about thirty foot from her stern, so we shackled on a manilla hawser, twelve-inch diameter.

Mr. OLSON.—Circumference, you mean.

A. Twelve-inch circumference and also the two parts of inch and a half steel wire to lengthen it out. Now, those three parts were attached to the main purchase.

Q. Were those in operation all the time?

A. Yes, all of the time from the time we started heaving in until the ship floated.

Mr. WARREN.—I didn't get that answer.

A. They were in operation all the time from the time [1688—855] we started in the heaving until the ship floated.

Q. When the ship—withdraw that. Where was the end of that steel cable with regard to the deck of the "Celtic Chief"?

A. The end of it had come in through the chock

(Testimony of Frederick C. Miller.)

over her poop deck and was along the maindeck.

Q. Was the—was this cable—well, at the time she came off, what was connecting you between the anchor and these tackles?

A. The main wire hawser, twelve-inch manilla and two parts of an inch and a half steel wire hawser. You see it was this way, Judge: the twelve-inch manilla was the weak link in our connection between the “Celtic Chief” and our anchor. There was no question about our anchor, there was no question about the steel hawser, there was no question about our purchase, but that twelve-inch main manilla rope wouldn’t stand anywhere near the same strain, so I used parts of, so I reinforced that with a wire hawser that I borrowed from the “Celtic Chief,” a brand *new that* had never been used.

Mr. OLSON.—Move to strike that part of the answer including the last statement of the witness as to the comparative strength of the twelve-inch manilla hawser with the other parts of the apparatus, on the ground that it’s conclusion of the witness and further on the ground it is irresponsive.

Mr. WEAVER.—The latter part of the answer may be stricken.

Mr. OLSON.—The motion is then granted?

The COURT.—Yes.

Q. Now, Captain, you saw this hawser and this steel cable reinforcement there? A. Yes.

Q. What was the strength of that part of your cable in [1689—856] comparison with the steel cable you had connected with the anchor?

Mr. OLSON.—Object to the question on the

(Testimony of Frederick C. Miller.)

ground that it is calling for the conclusion of the witness, it not appearing—there is no—it not appearing that the witness is qualified to answer.

Mr. WARREN—Same objection.

Mr. WEAVER.—Withdraw the question. You had a new manilla hawser, twelve inches in circumference? A. Yes.

Q. Can you say by consultation of authorities what strain that would stand? A. Yes.

Q. Have you any such authorities with you?

A. Yes.

Q. Will you give us the strain that that would stand?

A. A twelve-inch manilla approximately about thirty tons.

Mr. OLSON.—I'd like to have the reference to the book and see where the witness gets that testimony.

(Witness indicates.)

Mr. WEAVER.—Referring to Kent's Mechanical Engineer's Handbook, page 301.

A. Sixty-five thousand pounds.

Q. Captain, read the reference upon which you base your statement.

A. This is the result of thirty-five tests of 1.19 to 8.90 inches circumference. The rope was .2 to 11 pound and 40.4 pound per fathom. The strength of that rope was 1280 pounds for the first and 65,550 pounds or three thousand and three to seven thousand, three hundred and ninety-four pounds per fathom weight.

Mr. OLSON.—I move to strike all the testimony of the tensile strength. I make a motion, at this

(Testimony of Frederick C. Miller.)

[1690—857] time, if the Court please, to strike out all the testimony of the witness as to the strength of the twelve-inch manilla hawser that was used by the Miller Salvage Company as a part of the anchor line to its anchor, on the ground that it does not appear on the record what the weight per fathom of that rope was and the reference in the text-book is per fathom.

In order that we may ascertain the qualifications of the witness to testify, I would like to be permitted to ask one or two questions.

Captain Miller, do you know what elements are taken into consideration by the authors of this book in determining the tensile strength of manilla hawsers?

Mr. MAGOON.—I object to that as entirely immaterial.

The COURT.—I'll allow the question.

Mr. OLSON.—Answer the question.

A. What elements are taken into consideration by the author of this book? No, I do not.

Q. You don't know whether or not in giving the strength of that manilla hawser they take into consideration the weight of the manilla hawser as well as its size—do you know that?

A. I don't know it; no.

Q. You don't know whether they did or not?

A. No; I don't know; they consider size and all the tensile strength of all rope, as I know it is based upon its size and we never take into consideration its weight.

Q. But you are not an expert on tensile strength?

(Testimony of Frederick C. Miller.)

A. I am not.

Q. As far as you know, the author of the book from which you have read may have regarded weight as of importance as well as size of manilla hawsers? [1691—858] A. He may have.

Q. That's as far as you know?

A. As far as I know.

Mr. OLSON.—Now, I renew my motion, if the Court please.

The COURT.—I want to give the other side every opportunity. I'll withhold the motion for decision.

Mr. OLSON.—Do you know, Captain Miller, whether or not manilla rope varies in weight?

A. Yes, it does.

Q. You take a twelve-inch manilla hawser and one piece may weigh more than another piece of the same thing or size?

A. It may weigh if it's specially made for a special purpose.

Q. As far as you know, it may, though they are woven in the same way?

A. A little, maybe; they do not as a rule.

Q. Have you bought rope?

A. Yes, sir, we had. We paid for it by the pound.

Q. Have you ever bought twelve-inch manilla rope? A. Yes. That is you, we bought it.

Q. Have you any opinion how much manilla hawser weighs, if anything? A. Not sure.

Q. Manilla hawsers do vary a bit, do they?

A. No more or less.

Q. Do you know who were the makers of this

(Testimony of Frederick C. Miller.)

twelve-inch manilla hawser? A. No, I do not.

Q. There are various manufacturers, are there not, of manilla hawsers?

A. Under two or three names, but I guess it's one trust, like buying crude oil. [1692—859]

Q. You know there are various manufacturers of manilla rope?

Now, then, I submit it is clear that manilla hawsers do vary, more or less.

Recess.

Mr. WEAVER.—Have you any other scientific authorities give the strength of hawsers? A. Yes.

Q. What have you? A. Trautwine.

Q. Will you refer to Trautwine and by such reference say what the strength, tensile strength of the new manilla hawser is twelve inches in circumference?

A. Trautwine gives it as thirty and six-tenths pounds.

Q. Is there any qualification of the kind of hawser use—what are the statements or what do you see about the various, what strength?

A. In actual practise we find that manilla rope varies greatly in its strength, and Trautwine states that it may vary up to twenty-five per cent.

Q. And this particular hawser you were using was what age? A. It was a new hawser.

Q. Can you say from those tables what the strength of the steel hawsers which were rigged on to this hawser, auxiliary to the hawser?

A. Yes; eighty-one tons each.

Q. How did you figure that out?

(Testimony of Frederick C. Miller.)

A. I didn't figure it myself. Trautwine figures for me. He gives the breaking strength of an inch and a crucible steel as eighty-one tons; there were two parts [1693—860] of that, which would make one hundred and sixty-two tons.

Q. What kind of steel was this hawser that you used?

A. Inch and one-half was crucible steel; our main hawser was plough steel.

Q. Now, your main hawser had what tensile strength?

Mr. OLSON.—Object to it on the ground the question has been asked and answered.

The COURT.—Objection overruled.

A. I answered yesterday—I stated yesterday on the stand that the strength of that hawser, and I was stating it from recollection, was 120 tons. Trautwine gives it as 186 ton and so does Roebling.

Q. What kind of a hawser? What age of a hawser?

A. That was a hawser that had only been used on one previous occasion. It had been used on the "Manchuria."

Q. What do you say about its condition with regard to strength? A. The condition—

Mr. OLSON.—I object to the question on the ground it doesn't appear the witness is qualified to answer.

The COURT.—The objection is overruled.

Q. What can you say about the condition and appearance of this hawser in regard to strength?

A. Both its condition and appearance were good,

(Testimony of Frederick C. Miller.)

excellent. It didn't appear to have suffered any by its one use there.

Q. Did you observe, Captain, what the condition of the bottom of the sea was around the "Celtic Chief"?

A. The ocean-bed where the "Celtic Chief" was, was a coral bottom, generally speaking, level but with more or less—it was not a level sandy bottom, it was lumpy.

Q. Lumps of what? [1694—861]

A. Of coral.

Q. What was between the lumps of coral?

A. And some of them was lava rock. Principally coral and lava rock.

Q. Was there anything else beside coral and lava rock? A. Not that I saw.

Q. Did you see any sand?

A. I saw no sand there.

Q. What position was the "Celtic Chief" lying in with regard to the line of the breakers?

A. She was lying at right angles as near as could be determined to the line of the breakers.

Q. How was her bow pointing?

A. Directly toward the breakers.

Q. Was there any sea running at that time, Monday, when you first saw her?

A. There was a heavy swell running all day Monday, Monday night particularly. Monday night I recall it a heavy ground swell. Tuesday, I didn't see anything after we left Tuesday afternoon and at that time the swell had gone down. During Wednesday there was swell, considerable swell, but not as much

(Testimony of Frederick C. Miller.)

as on Monday and Monday night.

Q. What was the direction of this swell?

A. The swell was nearly in a fore and aft line with the ship, a little on the starboard quarter, if anything.

Q. What can you say what the tendency of this swell was to make any change in the position of the "Celtic Chief," if you know?

A. Yes, I do know. The tendency of that swell was to heave her in on the beach.

Q. Now, was there any other tendency beside merely heaving the ship on the beach that you could observe?

A. Any other tendency? [1695—862] Yes, there was a tendency of our ships lying lightering alongside to execute the heaving of that ship in on the beach, and that was one of the reasons why I refused to come out and continue the lightering.

Q. Was there any other change of direction than that you speak of, which the waves or swell tended to give?

Mr. OLSON.—I object to the question on the ground it is leading, if your Honor please.

The COURT.—Objection sustained.

Q. Can you say of any other effect it, any other effect that this swell would have other than forcing the "Celtic Chief" forward as you have described?

A. None other. It could have but one effect on her and that was to pile her up.

Q. Would the fact of the swell being on the starboard side of the "Celtic Chief" have any effect whatever?

(Testimony of Frederick C. Miller.)

Mr. OLSON.—The answer was, it might have been but the swell was not on the starboard side.

The COURT.—Is that right, Captain?

A. That's what I said; yes, sir.

Q. Is there any difference between starboard side and starboard quarter?

A. Yes, a difference of forty-five degrees.

Q. Tell us again what direction this swell was with regard to the lines of the "Celtic Chief"?

A. I have said that the swell was, as near as I could approximate it, directly astern, if anything, a little bit on the starboard quarter, a very trifle.

Q. Now, if the swell was on the starboard quarter, had that any effect whatever, effect or change the position of the "Celtic Chief"?

Mr. OLSON.—Object to the question on the ground it's [1696—863] leading; furthermore on the ground the matter has been fully covered by the witness. I withdraw my objection.

A. There was no apparent change in the direction of that ship's lying from the time I went aboard of her until she came off. The only movement of the ship was toward the beach.

Q. What was the condition of wind during Monday, Tuesday and Wednesday?

A. Monday morning it was one of the haziest mornings that I have ever witnessed in the Hawaiian Islands since the seven or eight years that I have been here. From the conditions one would prognosticate a Kona. As a matter of fact, there was a light southerly wind, not heavy, not strong, but a light southerly wind with a heavy swell, ground swell heaving in

(Testimony of Frederick C. Miller.)

shoreward. The weather during Tuesday and Wednesday was what one would consider to be generally fine.

Q. Wednesday that continued the same. What was the wind?

A. There wasn't any strong wind at any time that she was there.

Q. Under the conditions, Captain, of the weather on Wednesday night when the "Celtic Chief" came off, conditions of the sea, condition of the tide, and having observed the "Celtic Chief" as you had, with the tackle you had, and assume that the cable from the anchor to the hawser and the hawser that with the auxiliary cables to your tackle would not break under the strain with the power you could exert by means of your purchase tackles and the capstan and the men at the capstan working, in your opinion, Captain, could the "Celtic Chief" be moved off the reef from the place where [1697—864] she was, alone and with other agencies helping her?

Mr. OLSON.—I object to the question on the ground that the witness is not qualified to answer; furthermore, on the ground that it's calling for a conclusion of the witness; also, on the ground it is incompetent, irrelevant, and immaterial; furthermore, that the question does not state all the material conditions upon which the answer should be based in order to be proper testimony.

Mr. WARREN.—The conditions are not shown and the conditions are not at all taken into consideration.

(Testimony of Frederick C. Miller.)

The COURT.—I'll sustain the objection, though I'll allow you full latitude in the matter.

Q. Assuming, Captain, that the "Celtic Chief" had a freight cargo of 1600 pounds; that she was an iron sailing vessel of 789 gross tonnage; her tonnage under deck, 1652; her net tonnage, 1709; her dimensions, in length, 260.8; breadth, 39.5 feet; depth 32.3; her moulded depth between 22 feet 7 inches. After you had observed that such a vessel was ashore on the coral reef of the channel of Honolulu in a position bow-on to the shore and approximately at right angles to it, in the position under conditions of wind and weather and sea which you have observed, with the ship appearing to be aground on a coral reef and with her bow out of water above the water line as you have observed before, and assuming that a triple purchase tackle was rigged on deck of the "Celtic Chief" as you have described and that the fall of this tackle carried to the large capstan on the forward deck which you observed, and that there were sixteen men at work on such capstan, and assuming that this apparatus was attached to the seven-ton anchor which you described, by a wire cable two and a quarter-inch steel, new, and that the anchor was resting on the sea bottom about one thousand feet [1698—865] astern of the "Celtic Chief," and that this cable was attached to the tackles by a new hawser twelve inches in circumference with auxiliary cables of one and one-half inch crucible steel, and assuming that the anchor was in such a position that it would not come home when the strain was put upon it, and that this two and a quarter-inch steel cable was, would not

(Testimony of Frederick C. Miller.)

break upon the strain, under the strain, can you say that such apparatus was sufficient without other aid, to pull the "Celtic Chief" off the reef at the time she came off on Wednesday night?

Mr. OLSON.—I object to the question on the ground that it doesn't appear that the witness is qualified to answer further, or that the question assumes certain facts not shown in evidence; furthermore, that the material, all the material, facts are not included in the question necessary to be considered for a proper answer such as would be admissible in evidence; and, furthermore, upon the ground that the question is otherwise incompetent, irrelevant, and immaterial.

Mr. WARREN.—I wish also to enter the same objection to this question.

Mr. MAGOON.—Will your Honor reserve a ruling on it for the time being and we go on to something else?

The COURT.—I shall certainly reserve my ruling.

Mr. WEAVER.—Q. Have you, in your experience, had any knowledge of the relative force of pulls by a propeller?

A. Yes.

Q. And pulls of anchor on tackle?

A. Yes, sir, I have.

Q. What experience had you?

A. Well, the history of the salvage operations throughout [1699—866] the world—

Mr. OLSON.—If the Court please, he is not experienced and we object to it.

Mr. WEAVER.—Withdraw the question. What

(Testimony of Frederick C. Miller.)

have you to say about the relative power of an anchor with tackle in relation to the power of the vessel by means of the propeller?

Mr. WARREN.—I object to that. I don't believe the witness is qualified on the power of propellers.

The COURT.—Objection is sustained.

Mr. WEAVER.—Have you had any experience, Captain, of salving vessels where there was a propeller with lines used in hauling on the vessel?

A. Yes.

Q. And have you had any experience of that kind where there were vessels of seventeen hundred or eighteen hundred gross tonnage, that size?

A. Being pulled off with the propeller?

Q. Pulled off with the propeller.

A. I have never had any experience of that, such a ship being pulled off with a propeller.

Q. Have you seen it tried?

A. Yes, I've seen it tried. I've seen it tried on the "Manchuria."

Q. Have you had any experience with a vessel as small as 1700 or 1800 ton?

A. I've never had experience with a vessel as small as 1700 or 1800. I've had experience of numerous vessels being tried to be pulled off with their propellers.

Mr. STANLEY.—We object to the witness continuing on the ground it is not responsive.

The COURT.—I'll allow that question. [1700—867]

A. No, I never had experience with a vessel exactly that tonnage because I never operated two vessels of

(Testimony of Frederick C. Miller.)

exactly the same tonnage. There is no two vessels that have exactly the same tonnage.

Q. Have you had experience with vessels smaller than 1800 tons?

A. I've had experience with vessels smaller than 1800 tons and vessels larger than 1800 tons.

Q. In vessels smaller than 1800 tons what experience have you had with pulling them off with the propeller?

A. If they're very much smaller and not hard ashore you could pull them away with the propellers; it's possible.

Mr. WARREN.—I object to that, the witness has not qualified.

Mr. OLSON.—Same objection.

Mr. WEAVER.—I don't object to that answer being stricken out.

(Question read.)

A. I've had considerable.

Q. Tell what—tell instances upon which you base an opinion.

A. The British steamship "Don," the Brahma Islands.

Q. What was she?

A. Steamship of about 1200 tons dead freight capacity.

Q. Go on; where was that stranded?

A. We tried to pull her off with a propeller.

Q. Where was she stranded?

A. On the Brahma Islands.

Q. What kind of a beach? A. Coral reef.

Q. And what agencies were at work attempting to

(Testimony of Frederick C. Miller.)

pull her off, if any?

A. Steamship with about 800 horse-power.

[1701—868]

Q. Were there any other agencies working on it?

A. After we had pulled?

Q. At the time the steamer was pulling.

A. No other.

Q. What was done by that steamer?

A. Let go of her and gave her up.

Q. What did she do before she gave it up?

A. Put a line to it and pulled.

Q. With what did she pull? A. Wire hawser.

Q. What was doing the work? A. Propeller.

Q. What work was done by the propeller?

A. Turning the water.

Q. To what extent?

A. To the full horse-power of the steamer's engine.

Q. And how long did this continue, if you remember? A. During two high tides.

Q. And how was the steamer ashore, the ship?

A. The ship was ashore on a coral reef, the bottom very similar to this in the Hawaiian Islands and under conditions very similar to those of the "Celtic Chief."

Q. How was she very similar? What do you mean by that? How was she lying?

A. She was lying with her head on to the breakers, right angles with the line of breakers and ashore for her full length.

Q. And that—what was the result of this effort of the rescuing steamer?

A. She didn't budge her at all.

(Testimony of Frederick C. Miller.)

Q. Do you know whether or not she moved in any direction? A. Didn't move at all.

Q. Then what was done next?

A. Then cables was rigged up to her and anchors was placed out. [1702—869]

Q. Well, what was done? Describe the anchors.

A. They were hove taut.

Q. What kind of an anchor?

A. There were two three-ton anchors used on her.

Q. What connection was there between the anchors?

A. These two anchors were placed on her and one was back of the other, and one steel hawser laid from the anchor to the stern of the steamer.

Q. Do you know the size of the hawser used, steel hawser?

A. Yes, that was about an inch and three-quarters.

Mr. MAGOON.—Diameter?

A. Diameter. All steel wires are diameter.

Mr. WEAVER.—Then what power was used on this, what means was used to exert power on this cable? A. Donkey boiler and hoisting engine.

Q. And tell the effect of the work and what was done at that time.

A. The effect of it, Judge Weaver, was this: all the work, the first work did not affect this particular boat; then we hove in on that purchase and hove in and the ship would move and the ship would come down. In time she come, she'd come a little to that hawser.

Q. You spoke of these tackles, these purchases, what do you mean? What had you there?

(Testimony of Frederick C. Miller.)

A. We had a purchase there, blocks; what you call here the main purchase and one luff on that.

Q. And what was the result of your work?

A. The ship was floated.

Q. Have you any other experience with 1800 ton vessels? [1703—870]

A. I had an experience of a ship being pulled off with propellers on the “Celtic Chief.” I saw that done.

Q. Of course, we cut out the “Celtic Chief”; that is the case in point. Any other experience that you had with a vessel of 1800 tons or less?

A. Or less?

Q. Take 1800 tons or less.

A. That’s the only one that ever I tried.

Q. Now, vessels 1800 tons and over?

A. No, I’ve never attempted to pull anything with the ship’s propeller, anything of that size or over.

Q. Have you seen it tried?

A. No, I’ve never seen it tried except on the “Celtic Chief” and the “Manchuria.”

Q. Have you ever seen—have you seen any experiment or do you know of any instance to show the relative power of a propeller pulling by means of a steamship, of course, and the relative power used on an anchor and tackle? Have you had any such experience?

Mr. WARREN.—We object to that question on the ground the witness isn’t qualified to answer.

The COURT.—I understand, Captain, that the Brahma case was one in which you were interested and one in which you worked yourself, both methods?

(Testimony of Frederick C. Miller.)

A. Yes, your Honor.

The COURT.—Now, this other question as I understand it, is your experience and observations as to the propeller working.

A. I have—

Mr. WEAVER.—I withdraw the question.

The COURT.—I'll allow the question as a preliminary question. [1704—871]

Mr. WEAVER.—Answer the question.

A. Yes, I've seen it. I've seen demonstrations of the power of a ship's propeller as against tackles.

Q. What instance can you give?

A. An instance of the American Steamship Co. on 33 E. River Street, New York, wherein Captain —— took up an ordinary hoisting engine, and donkey boiler of the size and shape used here on our docks for discharging cargo, rigged up a purchase with one six-inch line and treble blocks and pulled two steamers of 800 horse-power, stern backwards.

Q. What were the steamers doing?

A. They were pulling full speed with their propellers as fast as they could go.

Q. What did you see down at the "Manchuria" with anchors?

A. The day that I went over to the "Manchuria" I saw the "Restorer," some of the Inter-Island boats, I don't recall the number or names of them, pulling on her and they didn't budge her as far as I could observe.

Q. Do you know the size of the "Restorer"?

A. The "Manchuria"?

Q. The "Restorer," that was pulling?

(Testimony of Frederick C. Miller.)

A. Her horse-power was approximately 3,000. I'm only giving you approximately. I don't know.

Q. What did you say they were doing?

A. They were pulling.

Q. And were on her for how long?

A. I don't know how long they were pulling. I only stayed there I should say about an hour. Took some photographs and came away.

Q. Were you there when the "Manchuria" came off? A. No, sir.

Q. While you were there, what effect had this pulling on [1705—872] the boat?

A. No effect on the "Manchuria" as far as was apparent to me.

Q. Do you know the condition of the tide?

A. It was about high water. I am not quite positive as to the fact, but I think the "Elehu" was pulling on her at that time.

Mr. MAGOON.—The "Elehu"?

A. The "Elehu" was there.

Mr. OLSON.—I'd like to ask one question on the question that you spoke of when a steamer attempted to pull off this vessel by means of her propeller and they gave it up and where purchase tackles with later two anchors were laid. You said that you were there all the time?

A. I was there during the whole of the time.

Q. You saw the towing steamer attempting to pull her off? A. I did. I was on her.

Q. Did you own any of those steamers?

A. I owned the steamer, not the one that was pulling on her; I had a charter on her. I owned the

(Testimony of Frederick C. Miller.)

other steamer, myself.

Q. The one that was ashore? A. Yes.

Mr. WEAVER.—Who owned the "Concord" at the time of this grounding of the "Celtic Chief"?

A. Miller Salvage Co.

Q. Who owned the "James Makee"?

A. Miller Salvage Co.

Q. The "Elizabeth"?

A. Miller Salvage Co.

Q. Motor boat, "Mokolii"?

A. Miller Salvage Co.

Q. Lighter boat, "Kaimiloa"?

A. Pacific Oil and Transportation Co.

Q. What had you to do with her? [1706—873]

A. I chartered her.

Q. You've spoken of these anchors, tackles, and blocks, who owned them?

A. Miller Salvage Co. with the exception of that one wire that I told you that I borrowed from the "Celtic Chief," that being around the "Celtic Chief."

Q. Now, then, what can you give the value of this apparatus which you were using at that time up to the time you pulled the "Celtic Chief"?

Mr. OLSON.—It doesn't appear that the witness is qualified to answer it and I object to it on that ground.

Q. What is the value—do you know what apparatus means?

A. Yes, I know what apparatus means.

The COURT.—You might make the question a little more definite.

(Testimony of Frederick C. Miller.)

Q. Who owned *these* anchor and the cables from the anchor to the deck and hawser and the auxiliary cable from the hawser?

A. Miller Salvage Co. employed all the outfit that itself or its men used on the "Celtic Chief" with the exception of that one steel wire we borrowed from the "Celtic Chief."

Mr. WEAVER.—I'd like to have that question read.

(Question and answer read.)

The WITNESS.—Owned all the outfit that was employed, used on that "Celtic Chief."

Q. What was that apparel or apparatus worth?

A. The ships have been appraised—

Mr. OLSON.—That shows exactly that counsel's question is not clear and I submit he should make more definite what he means.

Q. Did you understand the question? What was this apparatus [1707—874] or tackle worth that you have described?

The COURT.—Captain Miller, I understand Judge Weaver is *direct* his question toward the tackles, blocks and lines and that kind of apparatus solely. Is that right? A. Solely.

Mr. WEAVER.—That's it exactly.

A. Solely, not ships.

The COURT.—Now, then, have you any special objection?

Mr. OLSON.—No.

The COURT.—Very well.

A. Aside from the ships the valuation of our anchors and wires and tackles was approximately

(Testimony of Frederick C. Miller.)

\$12,000.00. That doesn't include the ships.

Q. Now, then, you owned the "Concord"? What did you pay for her?

Mr. OLSON.—Object to the question on the ground it is incompetent, irrelevant, and immaterial.

Mr. WEAVER.—Withdraw that question. What was the value of the "Concord" on the 6th day of December, 1909?

Mr. OLSON.—Object to the question on the ground it doesn't appear that the witness is qualified to answer.

Mr. WARREN.—Same objection.

Mr. WEAVER.—Withdraw the question.

Q. Have you had any experience in buying and selling boats like the "Concord" in Honolulu?

A. None other but her just like her.

Q. Have you had any experience in buying boats anywhere? A. Yes.

Q. Have you had any experience in buying boats like the "Concord" elsewhere? A. No.

Q. Have you had any experience in buying sailing boats [1708—875] elsewhere?

A. Buying and selling elsewhere? Yes.

Q. Have you observed the prices in buying any boats like the "Concord" here and elsewhere up to 1909? A. Yes.

Q. How much experience have you had, during what period of time has your observation extended?

Mr. WARREN.—Is that simply observation of what, of the market?

Mr. WEAVER.—Of the market.

Mr. WARREN.—Object to it as incompetent, ir-

(Testimony of Frederick C. Miller.)

relevant, and immaterial.

The COURT.—Objection overruled.

A. There has not been a time in twenty years that I haven't owned boats and sold them.

Q. But, Captain, your experience in observation of buying and selling boats.

A. Over twenty years. I've owned and sold boats, bought and sold boats.

Q. Have you observed others buying and selling boats?

A. Yes, I've observed others buying and selling.

Q. Have you observed others buying and selling boats similar to the "Concord"?

A. Somewhat similar.

Q. What was the "Concord"?

A. An Eastern fisherman, built in Essex.

Q. About how long?

Mr. OLSON.—I object to that as incompetent, irrelevant, and immaterial.

The COURT.—Objection overruled.

Q. What was her length?

A. About ninety feet. About that approximately.

[1709—876]

Q. About what beam? A. About twenty.

Q. Twenty feet. About what depth?

A. About nine feet, five. About. I'm giving you approximately.

Q. During December 6, 7, and 8, 1909, what was her condition as to seaworthiness or not?

A. She was in good condition. She had just returned from a trip, Mr. Olson, Weaver, with a cargo of one hundred and twenty-five tons of prosphate.

Q. What was her tonnage?

(Testimony of Frederick C. Miller.)

A. I judge her tonnage—I'm giving you approximately—I judge her tonnage was about seventy tons, registered. I know of *carring* at times 125 tons.

Q. And what was she worth in the market in Honolulu at that time?

Mr. OLSON.—Object to the question on the ground that it doesn't appear the witness is qualified to answer.

The COURT.—Captain Miller, have you bought and sold any other boats in Honolulu in the past year?

A. Yes, your Honor; I bought the tug "Elehu," steamer "Lihue," and sold her. I purchased at that time a schooner "Melancthon."

Mr. MAGOON.—How big was she?

A. I don't remember her tonnage. She carries 1,600 tons.

Q. The tug "Elehu"?

A. I don't remember her size, and tonnage.

Q. "The "Lihue"?"

A. I don't remember her size and tonnage. Sold her.

Q. Any others?

A. None other anywhere near the size of the "Concord."

Q. Any other vessels?

A. Since I've been in Honolulu? [1710—877]

Q. Yes. How about that pirate ship?

A. The schooner "Lady."

Q. What's her size?

A. She was about sixty feet. She was smaller than the "Concord."

(Testimony of Frederick C. Miller.)

Q. Any others beside her?

A. None others that I remember. No other vessels since I've been here in Honolulu, I think. Let me see. "Lady," the "Lihue," the "Melancthon," and the "Elehu."

Q. Ever have any difficulty to get away from this port with a ship?

A. Oh, I forgot. I bought and sold the bark "Alden Besse."

Q. How big was she?

A. Her tonnage was 882. I think she carried 1,400 tons.

Q. While you were here, have you observed the buying and selling and prices of vessels here?

A. There has been no boat bought and sold except what I have bought and sold.

Q. How long a time?

A. Eight years. I've been here between seven and eight years. I think eight years.

The COURT.—I hold the witness is qualified.

Mr. WEAVER.—Now, what's the value of the "Concord," December 6, 1909? A. \$3,000.00.

Q. Steamship "James Makee"; you had that?

A. Yes.

Q. What was that?

A. She was valued at \$15,000.00.

Mr. OLSON.—I move to strike on the ground that it is [1711—878] irresponsive.

Mr. WEAVER.—No objection.

Q. Describe the "James Makee."

A. She's a steamer.

Q. How big?

(Testimony of Frederick C. Miller.)

A. I don't remember her tonnage; she carries about 125 dead weight.

Q. Do you know about how long she is?

A. I don't remember her length.

Q. Do you remember her depth?

A. Approximately about 20 feet. I only give you approximate, of course.

Q. What machinery had she?

A. Compound engines. Compound service, condensation engine.

Q. How big?

A. I don't recall the size of the cylinder.

Q. What's the value of the "James Makee"?

A. \$15,000.00.

Q. That's in December 6, 1909? A. Yes.

Q. What's the—describe the launch "Elizabeth."

A. She's a launch with a new Eastern Standard Engine, gasoline engine, thirty horse-power. Eastern Standard.

Q. About how long is the "Elizabeth"?

A. About forty, thirty-eight or forty feet. Somewhere about there.

Q. And what's the value of the "Elizabeth," December 6, 7, and 8, 1909, in Honolulu?

A. The "Elizabeth's" value was \$4,000.00.

Q. And do you know the "Mokolii"?

A. Yes, sir.

Q. What kind of a boat is she? Describe it.

A. She's a gasoline, Eastern gasoline engine.

[1712—879]

Q. What power?

A. She has a hundred and twenty-five horse-power Eastern gasoline engine.

(Testimony of Frederick C. Miller.)

Q. And about what size boat is she?

A. The "Mokolii" is about, I should say, about ninety foot long and about sixteen or eighteen feet deep, approximately.

Q. And what's her value, December 6, 7, and 8, in Honolulu? A. \$8,000.00.

Q. Yes. And you knew the "Kaimiola." What's the size and value of the "Kaimiola"?

A. The "Kaimiola" is valued at \$2,000.00.

Q. What was she?

A. She was a sailing lighter, used for lightering purposes. I'd like to state, Judge Weaver, if his Honor, the Court, will permit me, that these figures that I have given you are not, are rather underestimated. They are overestimated.

Q. Are there any other, was there any other apparatus that you haven't given here?

A. Yes, we had another launch. You asked me the other day what appliances I used. I told you the "Concord" and those you've asked me about. Now, we had another launch we used beside the "Elizabeth."

Q. What was it, Captain? Is that yourself or Miller Salvage Co.? A. Miller Salvage Co.

Q. What was it? A. Small gasoline launch.

Q. What was it? Describe it.

A. Small gasoline, eight horse-power. Gasoline launch, cost me \$800.00.

Mr. OLSON.—Move to strike. It is incompetent, irrelevant, and immaterial.

A. Brand new. [1713—880]

The COURT.—The evidence will stand.

Q. I'll ask you, Captain Miller, what the value was.

(Testimony of Frederick C. Miller.)

A. Value of the——?

Q. Yes. A. \$800.00, sir.

Q. I understand that's the value as well as what was paid for it? A. Yes.

Q. How old was it? How long had it been in use?

A. Hadn't been in use two weeks.

Q. Do you know personally of the condition of the sea while you were, while the fertilizer was being taken out of the "Celtic Chief"? A. I do.

Q. What kind of a sea was there while you were working on Monday?

A. There was a long swell running in.

Q. What way?

A. Running in almost directly astern of the ship, towards the ship.

Q. And what effect—did that have any effect at all upon your operations? A. Yes.

Q. What?

A. Well, it hampered our operations and made the operation of transferring the cargo and it always tended to considerably damage our boats.

Q. What—were you there when the "Concord" was there? A. Yes.

Q. What effect, if any, had this there on the "Concord"?

A. Tore her windlass out and broke her chocks forward.

Q. What kind of an apparatus did you have there, if any? You spoke about danger—were you attached to the ship? A. We had six-inch lines. [1714—881]

Q. And was there any other apparatus about there in connection with these lines? A. Yes.

(Testimony of Frederick C. Miller.)

Q. What had you?

A. We had bales of hay and put them between the ship's side, the "Concord's" side and the "Celtic Chief's" side.

Q. You have spoken of the windlass and chocks being damaged, was there anything else done?

A. To the "Concord"?

Q. To the "Concord."

A. The windlass and chocks was all that I remember that was broken on the "Concord."

Q. Now, have you had any experience in repairing vessels? A. I've had considerable.

Q. What?

A. I've had to repair all of my own and rebuild them.

Q. How long?

A. Ever since I've been here and also the Oil Company's ships. We had charge of all the repairs to them.

Q. Did you—did you ever repair this damage to the "Concord"? A. I did.

Q. What did it cost you?

A. I would have to refer to a memoranda or refer to the books of the office. The records in our office show, I think, or should show what it cost us. With the Court's permission, Judge Weaver, I'll have to dig that up from the records in our books.

Thursday, August 24, 1911.

(Last question read.)

A. I haven't had an opportunity to go into the office since I left here yesterday and that's a matter of office records that we'll have to dig out of that

(Testimony of Frederick C. Miller.)

book [1715—882] there. We had a book here the other day that Judge Weaver brought up with the receipts.

Q. We've got to have all these facts from you.

A. These bills were paid two years ago and I wouldn't like to state that without having them verified by the facts or the office records.

Q. You'll answer that question after you get your record? A. Yes, sir.

Q. You have testified as to the repairs of the "Concord," but not the cost of the—was there any damage to those other vessels, and if so, how much did it cost?

A. Yes, there was a damage to the "James Makee." She tore out her port rail and port chock aft. The rail, the whole length of it.

Mr. OLSON.—What's that?

A. The rail aft of the port side of the "Makee" was torn out the whole length of it and her chock aft. She also carried away one of her bitts aft, one set of iron bitts and she carried away her port rail between her port bow chock.

Q. Port bow deck rail?

A. It's what we call the buffalo, where the chock is fastened through. That forward rail and after chock and bitts was renewed, replaced. The cost I can't give now. The port bow chock was and port rail, purposely as far as that is concerned. The after rail can be seen. It's a new part of the ship and we fixed it.

Q. The rail was renewed?

A. The rail was renewed and chock aft.

(Testimony of Frederick C. Miller.)

Q. What did it cost?

A. That I can't tell without reference to books likewise.

Q. Will you give us that testimony later? [1716—883] A. I will.

Q. Was any damage done to the "Elizabeth"?

A. Yes. She got a line in the scag aft and tore out the whole scagging.

Q. Explain to the Court what the scag is.

A. The scag is on the bottom of the keel, your Honor. There's an iron plate that runs aft that's bolted through the keel and the bottom of the rudder sets in that. It's something to support the heel of the rudder. We call it a scag. It's a continuation of the keel only in her instance it was iron or brass, I think iron.

Q. What did that cost?

A. I don't know. She went on the marine railway and had that fixed.

Q. The motor boat "Mokolii"?

A. The "Mokolii" had no damage whatever that I can recall.

Q. The "Kaimiola" have any damage?

A. The "Kaimiola" tore out one of her iron bitts forward. She had a pair of iron bitts forward; tore them out.

Q. What did it cost to repair her?

A. We had a spare pair of bitts and I put them on with our men. She didn't belong to me and I had to do that.

Q. Can you say the value of that work?

A. The bitts cost me \$86.00, a new pair, at the

(Testimony of Frederick C. Miller.)

Honolulu Iron Works. The labor I can't tell.

Q. You don't know?

A. We didn't keep any account of that labor putting them back. I only know the cost of the bitts.

Q. That small launch? A. Small launch?

Q. Did that have any damage? A. No, sir.

Q. During all the time you were working there, Captain, was there any danger to these boats?

[1717—884]

A. The most imminent danger to all of them.

Q. How, what kind of danger?

A. The boats lay fastened to the "Celtic Chief" and—

Q. Which boats?

A. The "Concord," "Kaimiola," and the "James Makee." There was a heavy swell running setting directly toward the breakers and we were not far from them. Our lines kept snapping and breaking. We used up one complete coil of a brand new six-inch line.

Q. What is a coil?

A. Approximately one hundred and twenty fathoms.

Q. What does it cost?

A. I don't remember the cost of the coil. I can refer to the Inter-Island books and that will tell me.

Q. Go on with your statement of the dangers.

A. The imminent danger to our boats was this, that when those lines parted the swell was setting right toward the beach, toward the breakers, and if it ever got adrift from us there was nothing that would have saved us or saved those boats from go-

(Testimony of Frederick C. Miller.)

ing in the breakers and being lost.

Q. Did the lines part? A. They did.

Q. Give us an idea how much parting there was.

A. From the time we started that work until we finished, our lines must have parted at least twenty times.

Q. What precautions did you find necessary to prevent danger under those circumstances?

A. We used the best lines we could get. We had a brand new coil of six-inch line and we used some to the "Celtic Chief" lines. We bent a boat davit on the "Celtic Chief" that was at least three inches in diameter.

Q. How did you do that?

A. Somebody made this [1718—885] line fast to that boat davit thinking it would hold.

Q. Any other instance that you can give of the force of the swell?

A. The force of the swell at that time, and it is greater or at all times than most people realize without actual experience, a ground swell setting in near shore will send a boat or ship ashore quicker than any other agency I know.

Mr. OLSON.—Move to strike the answer as not responsive to the question.

Mr. WEAVER.—I have no objection.

The COURT.—Very well.

Mr. OLSON.—The answer is then stricken?

The COURT.—There isn't—yes.

A. To show the force of the swell, the force of the swell was such that it would part a brand new six-inch line, snap it like a fiddle-string, and the boat's

(Testimony of Frederick C. Miller.)

bow would be sometimes four foot below her rail and the next time three or four feet above the rail, and as I stated yesterday, on that account we had to use bails of hay between the ships to keep them from smashing together.

Q. What time are you speaking of?

A. I'm speaking of the only time that we light-ered, Monday and Monday night.

Q. What was the difference between the lowest phase and the highest?

A. The lowest phase and the highest would be a distance of three or four feet below the level of the rail and four feet above it.

Q. What figures do you get from that?

A. I call it a four-foot swell.

Q. How do you measure a swell? [1719—886]

A. The swell is the medium between the lowest point and the highest.

Q. You don't call a swell from the highest to the lowest phase? That would not be an eight-foot swell?

A. If there was an eight-foot swell nothing would have lived there.

Q. An eight-foot swell would mean to your mind one that was sixteen feet from the highest to the lowest—

Mr. OLSON.—I object to the question on the ground it has been asked and answered.

The COURT.—The objection is overruled.

Mr. WEAVER.—Withdraw the question.

Q. Can you give more thoroughly than you have, the direction of this swell that Monday?

(Testimony of Frederick C. Miller.)

Mr. OLSON.—I object to the question on the ground it has been asked and answered over and over again.

The COURT.—I think it has been answered, Judge Weaver, very fully.

Q. I'll ask you, Captain, what the effects of that swell would be upon the vessel, the "Celtic Chief," on that Monday, if there were no agencies out acting upon her to restrain her motion.

Mr. OLSON.—Object to the question on the ground it has been asked and answered. I'll withdraw the objection. Let him state his answer.

The COURT.—I'll allow the question.

Mr. OLSON.—Will your Honor permit to ask a question?

Mr. WEAVER.—I object to that.

The COURT.—In my discretion I'll allow the question.

Mr. OLSON.—Captain Miller, didn't you remark a few moments ago in the course of my argument that my statement that you testified yesterday that the only tendency of that swell was to drive the "Celtic Chief" directly [1720—887] ahead farther on to the beach? A. I did.

Q. Didn't that—didn't you remark that that was correct?

A. That was correct. That is the only way that ship went.

Q. Didn't you say that it was correct that you testified yesterday that that was the only tendency of the swell?

A. Mr. Olson, so that I set this thing right, so that

(Testimony of Frederick C. Miller.)

your Honor will understand what I mean. What I testified to yesterday I'll testify to-day and next year and next year. The only tendency of that ship and what actually occurred was that she went directly toward the beach. That swell set her directly toward the beach. I testified to that yesterday or day before and I testified to-day. What it would have been without the agency of the Inter-Island boats would be another proposition, your Honor, and I may state for the *same* of information no ship ever remains bow to the beach when she strikes, unless her stern is held by an outside agency. She's bound to swing one way or the other.

Mr. WEAVER.—Now then, did you know, do you know what kind of a ship that "Celtic Chief" was?

A. An iron, four-masted sailing ship.

Q. What kind of a bottom has it?

A. Single bottom.

Q. In the position she was on Monday, Tuesday, and Wednesday, was there any danger to that ship with that kind of a bottom?

A. There was an imminent danger. [1721—888]

Q. On that coral on that shore? A. There was.

Q. What was the danger under those conditions?

A. The danger to that ship was this: that without extraneous help she would have broken a hole through her single bottom, pounded a hole through and not a pound of that cargo would have been saved. The cargo is of such a nature that it dissolves rapidly, even more so than sugar, in water.

Q. The fertilizer?

A. The nitrate. The fertilizer elements.

(Testimony of Frederick C. Miller.)

Q. On Wednesday, Captain, what, in your opinion, would have been the tendency of the "Celtic Chief," if there had been no agencies whatever holding her?

A. By Wednesday night she would have been overset.

Q. If there had been no objects holding on Wednesday? A. Yes.

Q. Why?

A. She would have had a hole through her. She couldn't have withstood the bumping on that beach. She lay fore and aft and her keel lay at right angles to the beach and up to that time the boats holding her she was bumping on that keel. When the ship overset her bilge—

Q. What is the bilge?

A. The bottom of the ship on either side.

Q. On what?

A. The lowest part of her bottom.

Q. This is referring to five o'clock or the time you got the tackles on? A. Yes, the condition then.

Q. Did this refer to five o'clock of the day you got your tackles taut? [1722—889]

Mr. OLSON.—Object to the question the ground it is leading.

The COURT.—Sustained.

Q. What time does this refer to, Captain?

A. It refers to all the time she was there from the moment she strikes the beach until she leaves it, the same probabilities are likely to occur.

Q. Did you observe the tackle on the forecastle, the capstan, I mean? A. Yes, sir.

Q. Describe it.

(Testimony of Frederick C. Miller.)

A. The capstan was a large sized, double-acting capstan. I mean by double acting it had differential gears in contradistinction to a single action capstan.

Q. Can you say what the effect of power when applied to a capstan of double acting or differential to a single action?

A. You increase the power from two to three times according to the width of those differential gears.

Q. Do you know anything about what kind of differential gear this was?

A. I do know it was a double-acting capstan in which you get double the power of it; from a single purchase to a double purchase.

Q. What was the size of this capstan?

A. As I near as I can remember, the capstan was about three-foot diameter across the head and about eighteen inches diameter through the bow and stood about, stood up to my breast, say about three foot, six. I know where it came.

Q. And how long were the handle bars or the bars of the bars of this capstan?

A. I didn't measure them with a tape, but there were not long bars and I should say at least eight foot. [1723—890]

Q. When inserted in the capstan how long was the extreme end?

A. About seven foot, four to seven—eight, because the insertion at the extremity of those bars are about eight inches.

Q. Where is the fall taken on the capstan?

(Testimony of Frederick C. Miller.)

A. Around the bottom.

Q. And how is the power used, worked on the fall?

A. The men insert the capstan bars in this head of the capstan and walk around the forecastle deck.

Q. What effect, if any, had that on the fall?

A. That tightens the fall.

Q. Where was the fall put?

A. The fall is put around the bottom and one man holds the slack.

Q. That winds it up? A. Winds them.

Q. Differential or double acting. If one pound be exerted on direct acting, what effect would one pound be exerted on a double action?

Mr. OLSON.—Object to the question; unintelligible.

Mr. WEAVER.—Withdraw the question.

Q. Can you say from any, from your own knowledge or from reference to scientific works, what the force exerted by an ordinary man is upon the capstan rod?

Mr. OLSON.—I object to the question on the ground no foundation is laid and furthermore on the ground that the witness is not qualified to answer.

The COURT.—I am going to allow the question. If you want to cross-examine, Mr. Olson, you may.

A. I couldn't state it in pounds without consulting a good authority on it. I do know—

Q. Will you refer to any works you have and tell us [1724—891] what exertion a man makes upon a capstan bar and under what conditions?

A. Trautwine gives it as sixteen pounds on a single purchase.

(Testimony of Frederick C. Miller.)

Mr. OLSON.—I object to counsel here instructing what the book says.

Q. What's it amount to—can you say?

A. I wouldn't like to say without referring to this book. Trautwine says sixteen pounds.

Q. Explain what Trautwine means.

Mr. OLSON.—I submit the witness has fully answered the question and that is that the man power is sixteen pounds.

Q. Under what condition is that—

Mr. OLSON.—According to Trautwine—

The COURT.—It seems to me we could bring some engineer who can testify and refer to these books.

Mr. WEAVER.—Can you tell us what that means, the sixteen pounds?

A. I can tell what this book is intended to convey, but I'd like to have this thing clear. I don't want to be placed in the position as being a damn fool with these books, but I can tell you that it makes all the difference in the world what kind of capstan. I can break a twelve-inch line—

Mr. OLSON.—I move to strike on the ground it is irresponsive.

The COURT.—It may be stricken. It should be stricken.

Q. Captain, you were speaking of sixteen pounds exerted, can you say—

A. I can say the conditions here spoken of here is a man working ten hours a day. Now, our men were working [1725—892] as hard as they could twenty or thirty minutes at a time. It was not sixteen pounds they was getting but sixty pounds.

(Testimony of Frederick C. Miller.)

Mr. OLSON.—I object and move to strike on the ground the witness isn't qualified to answer.

The COURT.—The last of the answer may be stricken.

Q. Can you say, Captain, from your experience or from your knowledge of scientific works on such work, what a man may exert, what force a man may exert upon the bars of a capstan when working a short period? A. Yes.

Q. Do you know?

A. From my own experience as—

Mr. OLSON.—Just a moment. I object to the question on the ground that it doesn't appear that the witness is qualified to answer from his own experience.

The COURT.—Am I right in assuming from your evidence so far that you can't state that in pounds?

A. Your Honor is perfectly correct. The pressure that a man can exert depends upon so many different factors. He may be a strong man and push two hundred pounds; some one hundred, maybe push five hundred and I may push an inch.

Mr. OLSON.—That's as far as you know.

A. That's as far as I know. How much a man can push in pounds I couldn't state and no scientific work either, Mr. Olson.

Mr. WEAVER.—Could a man make a greater exertion for a short period of time than a man—

Mr. OLSON.—Object to the question on the ground it is leading. And I can say further that it is immaterial. [1726—893]

Mr. WEAVER.—Withdraw the question. Can

(Testimony of Frederick C. Miller.)

you state whether or not—

The COURT.—I will state, Judge Weaver, that I take judicial notice of some things.

Q. Captain, you stated there were three men on a bar on this capstan, have you not? A. I have.

Mr. OLSON.—I object to the question on the ground it assumes something the witness has not testified to in this case.

Q. How many men were there on these bars?

A. Three men.

Q. And how many bars, Captain?

A. There were eight bars to that capstan.

Q. Now, where would a man stand with regard to the bar?

A. When I said there were three men, Judge Weaver, I want to qualify it. There were three men most of the time. The men, as I have stated before, was relieving each other. The men were as close to the outer end of the bar as they could get because the nearer the out end, as you can understand, the greater the purchase they get.

Q. Can you say how far from the center of the capstan the nearest part of the hand of the outside man would be? A. About seven foot, six.

Q. Where would his hold, was his hold with regard to the outer end of the bar, about what part of the bar?

A. I couldn't measure exactly, but a man stands about on the bar like that.

Q. How close to the end?

A. That's about ten inches. That is, his hands is about ten inches apart. [1727—894]

(Testimony of Frederick C. Miller.)

Q. Ten inches from the end?

A. I'm giving you approximate figures. Ten inches apart and he'd be as close to the outer end as he could on that bar, say from two to three inches from the end of the bar.

Q. The next man to him would have his hand how close to the center of the capstan?

A. About fourteen inches.

Q. Center of the capstan?

A. Oh, I don't know how far from the center of the capstan.

Q. How far from the—

A. He was fourteen inches from the outer end. You subtract that from seven foot six, and you've got it.

Q. And how far would that man's hand be from his outside hand?

Mr. OLSON.—Object to the question on the ground it is unintelligible.

The COURT.—Objection sustained.

Q. How about the third man? From the outer end of the bar, the third man?

A. About thirty-two or thirty-three inches from the outer end of the bar.

Q. Is that his outside hand or what hand is that?

A. The inner man. The man that is the nearest the capstan would be approximately about thirty-three or thirty-four inches. I can't tell you exactly.

Q. What would be? A. His hand.

Q. Which hand; outside hand or inside hand, Captain? A. His inside hand.

Mr. WEAVER.—We close the testimony of Cap-

(Testimony of Frederick C. Miller.)

tain Miller with the exception of this value of the repairs assumed by the boats; the total statement from his books of [1728—895] the repairs.

Mr. MAGOON.—I'd like to reserve the right to put that on later. With that exception we wish to close.

The COURT.—Very well.

Cross-examination on Behalf of Libelee.

Mr. OLSON.—Q. Captain Miller, as I understand it then, these three men on each bar would occupy an average of eleven inches each along the end of the bar? A. Mr. Olson—

Q. Is that right? A. As near as I can judge.

Q. And they were standing right alongside of each other?

A. Standing as close as they could stand.

Q. Pretty small men, weren't they? Were they?

A. They weren't strung out lengthwise, they stood horizontal.

Q. Each one would occupy about eleven inches each. I'll show you, Captain Miller, eleven inches on this ruler. Do you mean to say each one of these men would occupy that space?

A. I would say they could.

Q. Did they?

A. From the best of my recollection I say they could.

Q. Did they?

A. I don't know just how they stood. I've seen the capstan hove up. They stood like that, forty inches.

Q. And this was from your actual observation?

A. From actually seeing them.

Q. On the "Celtic Chief"?

(Testimony of Frederick C. Miller.)

A. On the "Celtic Chief."

Q. And each one took up eleven inches? [1729—
896] A. They could do it.

Q. Did they?

A. I don't know of a certainty.

Q. Did you observe?

A. They might vary three or four inches.

Q. Did they take up eleven?

A. I say they could.

Q. Did they? A. I don't know for certain.

Q. In other words, you don't know?

A. I won't swear that they took up eleven inches.
It might have been nine inches, it might be twelve.

Q. Do you mean to say that they could occupy only
nine inches? A. I do say they could.

Q. They could stand in nine inches? Do you know
the ordinary breadth of the shoulders of an ordinary
man? A. About that. (Indicating.)

Q. About two feet? A. Yes.

Q. And you mean to say that these three men could
stand in that space?

A. Yes, Mr. Olson, I do. Did you ever see pris-
oners in a lockstep?

Q. And they did? A. Possibly they did.

Q. You don't know that they did?

A. I'm not prepared to say that they did. Pos-
sibly they did.

Q. Now, then, Captain Miller, as I understand you,
this testimony that you have given as to the amount
of space that was taken along those bars, is not what
they did in fact, but what they could do?

(Testimony of Frederick C. Miller.)

A. To the best of my knowledge and belief, Mr. Olson, it *was they* actually occupied.

Q. What do you base that knowledge and belief on?
[1730—897] A. From actually seeing them do it.

Q. You saw them when they stood at the capstan, eleven inches apart?

A. I say, here's where they had their hands.

Q. You say that they were eleven inches apart?

A. That's what I saw to the best of my knowledge and belief.

Q. And you saw what you now testify, that these men only occupied eleven inches each?

A. The best I judge would be ten inches apart and there would be two inches between one man's hands, the inside man's hands.

Q. You said, did you not, that the outer hand of the outside man would be two or three inches from the outer end of the bar?

A. About two or three inches from the outer end of the bar.

Q. And ten inches for his hands? A. Yes.

Q. That makes twelve or thirteen inches?

A. Yes.

Q. Then two inches between the inner hand of the outside man and the outer hand of the inside man?

A. Yes.

Q. That would make twelve inches more?

A. Yes.

Q. Making twenty-four? A. Yes.

Q. Then there would be two inches between the hands of the two men? A. Yes.

Q. Then ten inches between the hands of the third

(Testimony of Frederick C. Miller.)

man? A. Yes. [1731—898]

Q. Making in all thirty-six inches or three feet?

A. Yes.

Q. Now, then, Captain Miller, where would their backs be? Alongside of each other?

A. Their backs? One back would be lapping over the other.

Q. They would be shoulder to shoulder?

A. No, they would not.

Q. They would be inside of the inside shoulder a little way? That's the way they stood, is that right?

A. I give—

Q. Did they stand that way as they worked around the capstan? A. As near as they could stand.

Q. Shoulder behind shoulder?

A. Sometimes one shoulder lapping inside the other man's.

Q. I'm asking you what you observed there?

A. That's what I observed.

Q. All of them?

A. All the time that I observed them.

Q. All the time you observed them that's the way they were working?

A. All the time I observed them they worked close out at the end of the bar.

Q. Did they work side by side or with shoulder behind shoulder?

A. One shoulder lapping a little behind.

Q. You observed that's the way they did it?

A. I didn't say they every one did it.

Q. I'm asking for what you observed.

A. That's what I observed.

(Testimony of Frederick C. Miller.)

Q. So you still maintain that according to your observation [1732—899] those men did not occupy more than about eleven each on those bars?

A. I still maintain that they didn't occupy more than the ten or eleven inches of their hands and the inch or two behind their hands.

Q. How often would you see them in an hour?

A. I suppose I saw them, Mr. Olson, if I saw them once I must have seen them twenty times.

Q. They were always working like that?

Mr. MAGOON.—Now, I object. The question has been asked and answered.

The COURT.—The question is allowed.

A. They weren't all of the time working like that because sometimes they were walking slow and sometimes there wasn't as much power required. Sometimes there were not the full twenty-four men on the capstan and sometimes we didn't use the capstan at all; we use the steam winch.

Q. Wednesday night?

A. Yes, Wednesday night.

Q. How often on Wednesday night did you use the steam winch?

A. I saw it taken in once and put off. We put it on the steam winch to save our men, because I paid the ship's man out of my own pocket to allow me to do it.

Q. Wednesday night? A. Wednesday night.

Q. When Wednesday night?

A. I should say about seven or eight o'clock.

Q. How long was that winch being used in that way?

(Testimony of Frederick C. Miller.)

A. I should say we used it approximately half an hour or more, then the steam went down or something occurred and we had to take out line off. [1733—900]

Q. Why didn't you state on direct examination when you were asked how those men were working as you have on cross-examination that they were not working all the time?

A. Probably because I wasn't asked.

Q. Weren't you asked to state how they were working and how much space they took up?

A. I was asked now how much space and I told you, and if my counsel had asked me if they had used the steam winch I'd have told him.

Q. I understand you now to say that they were not occupied while they were working the steam winch, is that correct? A. No.

Q. On direct examination you did not qualify your testimony in stating they occupied this small space. You didn't answer that on direct? A. No.

Q. In other words, you gave an answer that was not correct?

A. The record shows the answer. I don't remember the answer.

Q. In other words, you testified when you were asked how much they worked—

A. I testified all the time.

Q. You testified first they were working all the time?

A. Most assuredly. I told them just exactly what occurred as I saw it.

(Testimony of Frederick C. Miller.)

Q. You didn't tell what you saw when they—

A. I didn't think it was necessary to tell them we used the steam winch.

Q. I'm not asking you about the steam winch. I'm asking you whether they were not working so hard and [1734—901] you did not testify—you didn't say on direct that sometimes the men, while they were working, were not working quite so hard and were using more space? A. No, I did not.

Mr. MAGOON.—I object to it because the record shows—

The COURT.—Objection overruled.

Q. I want to ask you, Captain Miller, if that's the way you've been testifying?

A. Yes, just exactly. Right straight along I've been testifying to the truth.

Q. Just that way about everything?

A. Yes, sir, just that way; just what actually happened.

Q. That's all I want. Sometimes they worked as many as twenty-four men?

A. Sometimes there was.

Q. Sometimes less than twenty-four?

A. When the men changed they didn't change simultaneously, and sometimes possibly there was only sixteen men.

Q. That happened more than once?

A. I don't know how many times it happened.

Q. It happened more than once?

A. It might have been more; yes.

Q. You know of times when there were only sixteen men of those bars? A. I don't.

(Testimony of Frederick C. Miller.)

Q. Do you know of times coming under observation when there might have been as few as sixteen?

A. I think it quite probable.

Q. As you observed it?

A. I didn't count them. When the men was relieved whether the other fellow come there quick enough to relieve him—

Q. I'm asking you as far as you observed there were times when there were as few as sixteen men working on [1735—902] the capstan bars.

A. Mr. Olson, I've answered that as truthfully and as clearly as I can in this way, that I think it was highly probable.

Q. I'm asking you if that is according to your observation and best judgment?

A. That's my observation and best judgment, that there may have been times when there was only sixteen men on those bars.

Q. That's what I asked you a few minutes ago and it's only now that you've answered that question. You observed the position of the "Celtic Chief" pretty well, didn't you, out there as she lay on the reef there Monday, Tuesday, and Wednesday?

A. Yes, I did.

Q. Wednesday, as well as Tuesday? A. Yes.

Q. She was on the reef her whole length on Wednesday?

A. To my best judgment and belief it was the length, the whole length.

Q. How was she on Tuesday?

A. I didn't observe on Tuesday.

Q. But you observed her on Monday? A. I did.

(Testimony of Frederick C. Miller.)

Q. How far was she on the reef then?

A. Monday morning she wasn't as far on the reef as Wednesday.

Q. I'm asking you how far she was on the reef on Monday. A. I can't say.

Q. You don't know? A. I don't know.

Q. Because you didn't take any observation of it?

A. I took some light to see. [1736—903]

Q. Then how far was she on the reef?

A. Well, I couldn't tell whether she was on her full length on Monday or not.

Q. What did the soundings show?

A. The sounding showed that she was.

Q. On Monday? A. On Monday.

Q. Why did you say now you didn't know?

A. The soundings showed that she might have been, but I don't know.

Q. You took those soundings? A. I did.

Q. Do you know whether or not she was resting on the coral reef at the stern?

A. She was by her draft.

Q. Was she according to the soundings?

A. I don't think she was. Her draft, so that I may be clear to you, the draft that the captain gave me and the soundings showed me that she was on astern, but her stern was bumping.

Q. You know that that was on Monday?

A. I don't know it was so.

Q. You believed it was so? A. I believe so.

Q. And she kept going farther on the reef on Monday? A. Yes.

Q. How much farther was she on the reef by Mon-

(Testimony of Frederick C. Miller.)

day night than Monday morning?

A. I wouldn't say Monday night, but I rather say half her length.

Q. And these soundings that you took were Monday morning?

A. I sounded her Monday morning.

Q. So by the time Monday night had arrived she must [1737—904] have gone a hundred feet?

A. Approximately that.

Q. Do you think she worked a bed for herself?

A. There was no bed worked in that reef.

Q. Did she raise herself out of the water going further on the reef? A. She did.

Q. How much farther out of the water?

A. Sometimes her load line mark would be three foot out of the water and sometimes it would be eight inches.

Q. It would be at least eight inches and it might be two feet? A. I would judge that.

Q. Why did you mention two feet?

A. I mentioned two feet because it may have been two feet.

Q. Not because you knew it was two feet?

A. No, I did not know.

Q. You don't know how much it was?

A. No man living can tell you or me or anybody else how much.

Q. And if you state it was two feet out of the water you are saying—

A. I don't think I have made that statement.

The COURT.—Captain Miller, what was it you gave—eight inches?

(Testimony of Frederick C. Miller.)

A. Eight inches to two foot. You can only guess that.

Q. Now, then, Captain, will you tell us what those soundings were?

A. No, I can't recall them exactly, sufficiently. I sounded around carefully on both sides myself with the line.

Q. Stern and bow also?

A. I started on the starboard and went around on her starboard side, starboard, stern and, rather to the port side, until I got to the [1738—905] point from which I started.

Q. Was she lying pretty well on an even keel or was she farther out of the water at her bow than at her stern?

A. To the best of my judgment she was further out of the water at her bow.

Q. How much?

A. This I'm telling you from observation. It may have been from eight inches to two feet.

Q. You think it was from eight inches to two feet; that the depth of the water was from two feet to eight inches less down at her bow?

A. I mean that her load line mark—

Q. I'm not asking about her load line mark. I'm asking what your soundings show.

A. That shows how much she's at the load line mark.

Mr. OLSON.—Now, if the Court please, I withdraw my question.

Now, Captain Miller, confining yourself to what the depth that your soundings showed around the "Cel-

(Testimony of Frederick C. Miller.)

tic Chief," you say the depth of the water at the bow as compared with the depth of the water at the stern.

A. Well, there was more. There was less water at the bow than at the stern.

Q. How much less water at the bow than at the stern?

A. I'm telling you now, Mr. Olson, that I didn't put down those soundings, but to the best of my judgment about two feet less at the bow.

Q. That was on Monday morning?

A. After I got there Monday afternoon.

Q. What time?

A. I can't tell you what time it is.

Q. Why did you say eight inches a few moments ago if [1739—906] you know it was two feet?

A. I said her low-water mark showed from eight inches to two foot and I also stated, Mr. Olson, that no man could tell you how much that line was out on account of the swell running.

Q. Now, then, if there is testimony in this record, Captain, that shows that on Monday morning, according to soundings the depth of the water was practically the same from stem to stern, from bow to stern, then you would say that those soundings were not taken correctly?

A. I wouldn't care for all the testimony or anything. I'll tell you what I saw and what I know and anything else.

Q. If there is testimony of that, is that testimony incorrect?

A. It's incorrect as far as my observation went.

Q. Captain Miller, you were Superintendent of the

(Testimony of Frederick C. Miller.)

Miller Salvage Company, during the time the "Celtic Chief" was on the reef out here? A. I was.

Q. And during all the time that the Miller Salvage Co. was engaged in attempting to assist her?

A. I was.

Q. You were also the chief stockholder of the Miller Salvage Company? A. I was.

Q. What proportion of the stock did you hold at that time?

A. All right. I'm giving you approximately. I think about sixty per cent.

Q. Isn't it a fact that there are 250 shares of the Miller Salvage Co. as she was incorporated and as that company existed at the time of these salvage operations?

A. I can't tell you that. [1740—907]

Q. Don't you know?

A. The capital stock was twenty-five thousand and it was doubled to fifty thousand, and whether it was doubled after that I don't know.

Q. Before the capital was doubled, isn't it the fact that you owned one hundred and forty-eight out of the two hundred and fifty?

A. Both before and after it was doubled I held the controlling interest in it, if that's satisfactory. I don't know just the number of shares.

Q. How much of the capital stock of the Miller Salvage Company do you now own?

Mr. MAGOON.—I object to it as immaterial, your Honor.

The COURT.—Objection overruled.

A. I own the controlling interest in it now.

(Testimony of Frederick C. Miller.)

Q. I'm asking you how much?

A. I don't know. I tell you frankly I don't know.

Q. Can you testify later on? A. Yes.

Q. I'll ask you after the next recess to come back with the information that I desire on that, both the number of shares you owned at the time of the salvage operations and the shares you now own and also the total number of shares at the time of the salvage operations and the total number of shares now.

Mr. MAGOON.—Object to that question, it is incompetent, irrelevant and immaterial.

The COURT.—Objection overruled.

Q. Now, Captain, you, as superintendent, had all the powers of a general manager, did you not, without condition? A. Yes.

Q. You were in complete control of all those salvage operations? A. Yes.

Q. You personally supervised the whole work?

A. Yes.

Q. Of the Miller Salvage Company out there on the "Celtic [1741—908] Chief"? A. Yes.

Q. And in connection with her? A. Yes.

Q. Nobody else had anything to do with it so far as the primary and highest supervision was concerned? A. Quite so.

Q. You were out there practically the whole time too, were you not? A. Yes.

Q. Personally supervising?

A. Personally supervising.

Q. Personally giving the orders?

A. Personally giving the orders.

Q. And personally directing the work that was

(Testimony of Frederick C. Miller.)

done by the Miller Salvage Company? A. Yes.

Q. You were authorized, were you not, to act as the manager and superintendent of this company and of these operations of your company? A. Yes.

Mr. MAGOON.—I object to that as a conclusion.

The COURT.—Objection overruled.

Q. You were? A. Yes.

Q. Now, Captain, I want to ask you about the "James Makee," which was one of the vessels that was used by the Miller Salvage Company in connection with the "Celtic Chief" salvage. You have testified that the "James Makee's" value at that time was \$15,000.00? A. I have.

Q. Will you state whether or not you had immediately prior to that time expended anything in overhauling or repairing the "James Makee"?

A. I have, I did.

Q. How long before was it that you did this?

A. I spent altogether about—

Q. I'm not asking you about that, I'm asking you how long before?

A. I can't remember, Mr. Olson, how long.

Q. A year or two years?

A. Oh, less than that. Less [1742—909] than that. We paid Lyle \$2,250.00.

Q. How much?

A. We paid Lyle a bill, if I remember right, \$2,250.00, about three or four months—I'm giving you approximately now—three or four months before that.

Q. Any others?

A. Yes; I'm speaking of the large ones.

(Testimony of Frederick C. Miller.)

Q. Yes, the large ones.

A. I put in new winches into her, \$4,500.00.

Q. When did you do that?

A. I think that was about a year or two years possibly, before these operations.

Q. About two years before?

A. About that. I'm giving you approximate figures.

Q. About two years before? A. Yes.

Q. Do you remember when you purchased this "James Makee"? A. I do.

Q. When?

A. I don't remember when I purchased her; I purchased her.

Q. You purchased her from the Inter-Island Steam Navigation Company, did you not?

A. Yes.

Q. About three years before?

A. I don't remember the date.

Q. Can't you tell at all?

A. I can tell you just when by reference to another matter. If you can tell me when the "Manchuria" went ashore I can tell you when I purchased the "James Makee." After she was afloat and in the harbor here I purchased the "Makee."

Q. That was within a month or two when she came off the reef?

A. Within a month or two after she came off the reef I purchased the "Makee."

Mr. OLSON.—If it's the fact, Captain Miller, that the "Manchuria" was floated on September 16, 1906, then it must have been before the end of 1906 that

(Testimony of Frederick C. Miller.)

you purchased the "James Makee" from the Inter-Island? [1743—910] A. That would be a fact.

Mr. OLSON.—Now, I'll ask counsel to admit that it was December, 1906.

Mr. MAGOON.—We'll admit it.

Q. Now, I'll ask you how long after that it was that you expended this \$4,500.00 for winches on the "James Makee"? A. Approximately a year.

Q. Not longer than a year?

A. It may have been longer.

Q. About the end of 1907?

Mr. MAGOON.—Now, I object.

A. About that.

Q. Was it more than a year after?

A. It might have been, but I wouldn't say so.

Q. Can you produce any records from your company showing when it was that you purchased these winches? A. I don't think I can.

Q. The Miller Salvage Company made no record of the amount that it paid for the winches?

A. No.

Q. The Miller Salvage Company purchased those winches?

A. No, Captain Miller purchased it. I purchased it personally.

Q. Did you own the "James Makee" at that time?

A. I did.

Q. When was the Miller Salvage Company organized?

A. That I can't tell without looking it up. I purchased the "James Makee" about the date that you name in my own name. I purchased that winch and

(Testimony of Frederick C. Miller.)

put it into her. I purchased the hawse-pipes and put into her.

Q. These winches that you purchased you purchased personally? A. I did.

Q. And you have nothing in your books to show how much you paid? A. No.

Q. You have absolutely no record that you paid \$4,500.00? From whom did you purchase it? [1744—911] A. I think it's from Morgan.

Q. Which Morgan? A. The auctioneer.

Q. In Honolulu? A. In Honolulu.

Q. And you kept no personal account?

A. Not at that time; neither the ship nor the winch or anything else.

Q. Can you remember whether or not it was before the end of 1907 that you purchased this winch and installed it in the "James Makee"?

A. I don't think it was before.

Q. You think it was after? A. I think so.

Q. Can you verify that?

A. No, I can't verify that.

Q. Had you expended any other sums on the "James Makee" before the end of 1907?

A. Yes.

Q. How much?

A. I'd put a new bow into her and I had the Honolulu Iron Works make me two hawse-pipes at considerable expense. I don't remember what their bills were now to fit this winch.

Q. Was this a part of the \$4,500.00?

A. That was part of it. Installing the winch included the hawse-pipes.

(Testimony of Frederick C. Miller.)

Q. Anything else, did it include?

Q. Nothing except the amounts putting it in.

Q. How much did that amount to?

A. I don't know.

Q. Can you verify that?

A. Can't verify it.

Q. How long did it take?

A. It took us about a month.

Q. How many men?

A. Four men besides the engineer's department.

Q. How many people in the engineer's department? A. Three in the engineer's.

Q. Were they laborers or expert?

A. The engineer is considered an expert.

Q. How much was paid the engineer? [1745—912] A. Engineer, \$150.00 a month.

Q. Three of them? A. No.

Q. One?

A. Only one engineer and in his department three men.

Q. That would be how many dollars for the boat? \$150.00— A. \$150.00 for the engineer.

Q. How much for the labor?

A. We paid one man \$75.00 a month; three men, I think, we paid \$2.00 a day.

Q. That would be \$180.00 for three men and \$75.00 for one man? A. Yes.

Q. What other labor besides this?

A. I don't recall any other now.

Q. You think that was all expended on the installation of these winches? A. I think that's all.

Q. Do you mean to tell the Court that during that

(Testimony of Frederick C. Miller.)

time you kept no personal accounts at all?

A. I just mean to tell the Court that.

Q. Did you pay that by cheque?

A. Yes, sir, I may have paid it by cheque.

Q. Who are your bankers? A. Bishop & Co.

Q. And if you paid by cheque you paid through Bishop & Company? A. Possibly.

Q. Will you verify that during the hour?

A. I've got to go back for a long time and look up my cheque books.

Q. Bishop & Company's books show that?

A. I think so.

Q. Will you verify that?

A. I am perfectly willing to tell you everything about it as far as I know, but I am not coming here and tell you something under oath that occurred six years ago.

Q. Will you ascertain during the noon hour whether you paid [1746—913] for that by cheque on Bishop & Company?

A. During the noon hour I want to get my lunch and I've already promised to get you the records of the Miller Salvage Company's books, and if you ask me to get you this now it will take some time.

Q. You have two hours. Are you willing to do so?

A. There's nothing I want to conceal.

Q. You'll try to do it?

A. Which record do you want?

Q. Both. A. I won't promise.

Q. You'll try, will you?

A. I'll try to; I've got nothing to conceal in this thing.

Recess.

(Testimony of Frederick C. Miller.)

Q. Captain Miller, have you obtained the figures that I asked for in regard to the capital stock of the company and the stock owned by you at the time of the "Celtic Chief" operations and also at the present time? A. Yes.

Q. Will you state what was the total number of shares of stock of the company during the salvage operations on the "Celtic Chief"?

A. The total number of shares I should think then was two hundred and fifty. I'm not certain about the date that the Miller Salvage Company doubled its capital stock from twenty-five to fifty thousand.

Q. You had the same number of shares?

A. I have.

Q. Before the increase of the capital stock of two hundred and fifty shares? A. Yes.

Q. Par value one hundred dollars? A. Yes.

Q. How many of those shares were held by you?

A. I hold in my own name, one hundred and ten and owned twenty-six. [1747—914]

Q. You had disposed of ten or twelve shares before that time, hadn't you? A. Yes.

Q. Didn't you own one hundred and forty-eight of the shares originally?

A. I owned, I think it was one hundred and forty-eight originally. I'm sure I gave my sister five and I gave my son in-law a couple of shares.

Q. How many shares are there now?

A. There are five hundred shares now.

Q. Par value a hundred dollars each? A. Yes.

Q. How many shares of the company are owned by you?

(Testimony of Frederick C. Miller.)

A. There are in my name, two hundred and eighteen, and of Mrs. Miller one hundred and twenty-two.

Q. That's your wife? A. Yes.

Q. And your sister?

A. Five shares standing in her name.

Q. And your son in law?

A. My son in law and his wife, four shares.

Q. And you have absolutely no interest at all in the balance of the shares of the company?

A. The company itself owns thirty-seven shares and twelve shares of the Miller Salvage Company's stock that are attached for a debt owing the company.

Q. The company has a lien?

A. The company has a lien and I being the largest stockholder am interested in it.

Q. Any others?

A. That I have an interest in?

Q. Yes. A. None whatever.

Q. All the rest of the shares of the company are owned by other third parties in whom you are not interested? A. In whom I am not interested.

Q. The company itself has no treasury stock?

A. None except those forty-nine.

Q. Who owns the balance?

A. The Standard Oil Company [1748—915] owns fifty and Mr. ——— owns nine; Henderson, the bookkeeper, holds two; Mr. Cooper holds forty; Bishop & Co. holds one as trustee; Mrs. ———, my sister, five shares. That's all.

Q. So the fact of the matter is, is it not, Captain Miller, that you and your wife own practically four-

(Testimony of Frederick C. Miller.)

fifths of all of the stock of the Miller Salvage Company?

Mr. MAGOON.—I object to that because it's conclusion.

Mr. OLSON.— I withdraw my question. Do you hold your wife's proxy for the shares held by her?

Mr. MAGOON.—Object.

Mr. OLSON.—Withdraw the question.

Q. Did you look up whether or not you paid for that anchor by cheque on Bishop & Company? I said anchor; I meant winch. Did you look up whether or not you paid for that winch that you put in the "James Makee" by cheque on Bishop & Company?

A. I telephoned to our former bookkeeper who had charge of our books and couldn't get him. I've never kept the books, know nothing of them. I only know that they tell me what the book value of the "James Makee" was.

Q. I'm not asking—

A. If you'll give me time we'll give you the cost of the "James Makee" from our books.

Q. That isn't what I asked you for. I asked you to ascertain whether or not you paid for the winches that you purchased by cheque?

A. That I don't know whether or not it was.

Q. Who was your bookkeeper at that time?

A. Henderson was my bookkeeper.

Q. And who kept the books?

A. He kept the books of the Miller Salvage Company.

Q. Both before incorporation and after?

(Testimony of Frederick C. Miller.)

A. No, before incorporation there was no books of the [1749—916] Miller Salvage Company kept.

Q. Now, then, would Mr. Henderson know what was paid for the windlass that was put in the “James Makee”?

A. What I told him.

Q. What you told him?

A. What I told him.

Q. So that you would have to learn from Mr. Henderson to ascertain what the windlass cost?

A. Exactly.

Q. When did Mr. Henderson begin to keep the accounts?

A. Mr. Henderson was that, if I remember right, at the time I purchased the “Makee” and up to the time I resigned from the Oil Company.

Q. And kept your books?

A. He kept the Miller Salvage books.

Q. The Miller Salvage Company was in operation all that time?

A. It was, yes.

Q. I asked you a question—

A. If you’ll permit me to answer it my own way you’ll get the same thing. The Miller Salvage Company was operated by myself personally before it was incorporated.

Q. And the Miller Salvage Company did keep books? The Miller Salvage Company did keep books before incorporation?

A. I didn’t. I’m not sure, but I think the books were started after the incorporation.

Q. Wasn’t Mr. Henderson with you from the time the Miller Salvage Company was incorporated?

A. Yes.

(Testimony of Frederick C. Miller.)

Q. And didn't he keep the books of that company?

A. Let me answer this. When we incorporated we went down and got an expert on accounts to show us how to start the books and they started the books for us and for Henderson. They opened the books for us. I'm not a bookkeeper. Mr. Hogan in the brewery was interested with me at that time in [1750—917] the Miller Salvage Company, and he said we'd better have a man to open the books and we'd better go to the expense of \$30.00 and get it done. Now, Davis was one of the parties of the firm and we started those books. He started them and opened them and then he showed Henderson, our bookkeeper, how to continue to keep them. I want to go on in my own way if you'll permit me. The question of the cost of the "Makee" come in. He said, "How much did you pay for the 'Makee'?" I said, "\$4500.00." "How much did you pay for the windlass and the hawse-pipes and the buoy on her?"

Q. Now, if the Court please, I submit this is incompetent evidence and I have a right to stop the witness here. I ask that the Court instruct the witness now to answer the question now. Were any books kept of the Miller Salvage Company prior to incorporation?

The COURT.—The whole line had better be stricken. You'd better start over again.

Mr. OLSON.—Then the answer is stricken as I understand it. Now, then, Captain Miller, will you say whether or not any books were kept of the affairs and accounts of the company carried on by you prior to the incorporation of the Miller Salvage Co., Ltd.?

(Testimony of Frederick C. Miller.)

A. No, sir.

Q. None whatever?

A. I do not think there was.

Q. What was Henderson doing for you in your employ at that time? A. ——— for me.

Q. And didn't keep your books? A. No.

Q. Where is Henderson now?

A. In the employ of the Pacific Oil and Transportation Company.

Q. He can be obtained and brought in here as a witness, [1751—918] can he? A. Yes.

Q. How many years had you been in business, doing business under the name of Miller Salvage Company, prior to the incorporation of the Miller Salvage Company, Limited?

Mr. MAGOON.—Object to that, it is immaterial.

The COURT.—Objection overruled.

A. When did you say?

Q. Yes.

A. Beginning with the time I bought the "James Makee."

Q. I think you testified that you bought that in the latter part of 1906?

A. Latter part of 1906 until, I think, 1907, we was incorporated. I'm not sure.

Q. Weren't you doing business from 1904, the time you first came to Honolulu, up to 1906?

A. From 1904 to 1906. Ever since I've been in Honolulu I've been interested in salvage work.

Q. You've been in business as a salvor?

A. I worked as a salvor.

(Testimony of Frederick C. Miller.)

Q. And you carried on the work, lightering and towing and salving? A. Yes.

Q. Under what name were you carrying on business? A. My own name.

Q. How many boats did you have?

A. I had the "Lihue" and "Elehu." I think the "Lihue" was the first boat that I owned in these islands that ever did any salvage work.

Mr. MAGOON.—Object to this, if your Honor please, as entirely immaterial.

A. None other that I can recollect.

Q. But you were actually engaged in the business that I've referred to from 1904 to 1907?

A. Yes.

Q. You had a number of men employed?

[1752—919] A. Not a large number.

Q. You kept no accounts?

A. I kept no accounts whatever.

Q. You kept no labor accounts?

A. No, except paying the men off.

Q. Didn't keep any books at all? A. No.

Q. Didn't keep any labor account?

A. Except the weekly pay-roll.

Q. What did you do with the pay-roll?

A. After the men was paid off threw it away.

Q. From 1906 on to the time of the incorporation of the Miller Salvage Company, you kept no accounts?

A. I never kept an account until someone else was interested in the company.

Q. Wasn't there someone else interested prior to

(Testimony of Frederick C. Miller.)

the incorporating of the company?

A. Not a man, nobody.

Recess.

Q. And you say that it cost you \$4,500.00 to purchase and install the windlass that you testified to this morning, in the "James Makee"?

A. In the "James Makee." The same as I state now.

Q. And that includes—and that figure comprises the price you paid for the windlass?

A. Yes.

Q. The price that you paid for the labor you've testified to in the installation cost? A. Yes.

Q. And the price paid to the Honolulu Iron Works for the two hawse-pipes. That amounted to \$4,500.00? A. Yes.

Q. Captain, do you know where that windlass came from? A. Yes. [1753—920]

Q. Where did it come from?

A. I know where it was.

Q. Where?

A. To the best of my belief the name, if I remember correctly, was "—— De Richmond."

Q. That was brought to Honolulu by whom?

A. Brought to Honolulu by Captain Weisbarth.

Q. And sold to you by whom?

A. By Stevens, a man by the name of Stevens, who was then the auctioneer for James F. Morgan, who was then acting for James F. Morgan.

Q. Do you know what you paid for that anchor?

A. For that anchor?

Q. For that windlass.

(Testimony of Frederick C. Miller.)

A. I don't remember just what I paid for the windlass.

Q. Do you know what you paid to the Honolulu Iron Works for the hawse-pipes? A. I don't.

Q. Did it amount to a thousand dollars or two that you paid for that windlass?

A. I don't recollect.

Q. Do you think it did? A. No, I don't.

Q. Have you no idea?

A. I have an idea that the windlass itself cost somewhere under \$500.00.

Q. Isn't it a fact that it cost you just \$105.00?

A. No, it's not a fact.

Q. Isn't that the amount that you paid at auction?

A. I don't believe it was.

Q. Don't you know you paid \$105.00 for the windlass? A. No.

Q. If Mr. Morgan's books—Mr. Morgan being the man of whom you purchased the windlass—if Mr. Morgan's books show that you paid \$105.00, do you think that is right? A. If the book says so.

Q. It might have been \$105.00?

A. It might have been.

Q. And was nothing like \$500.00?

A. I think it was under \$500.00 that I paid for it in the [1754—921] yard as it laid there. You understand me, distinctly, Mr. Olson. I'm stating that when I brought it from the place I bought it as it lay in the yard.

Q. How large is that windlass? How heavy?

A. The windlass is about six tons.

Q. You brought it from the yard to the "James Makee"?

(Testimony of Frederick C. Miller.)

A. I think it was from the yard to the Honolulu Iron Works to get some work on it, and if I remember right Hustace Peck hauled that from that yard to the Honolulu Iron Works.

Q. How much did you pay to Hustace Peck?

A. I couldn't say.

Q. Was it as much as \$50.00?

A. I don't think so.

Q. You are sure it wasn't that much?

A. I wouldn't have paid them \$50.00.

Q. You are very sure it was less?

A. I think so.

Q. And the Honolulu Iron Works did some work on it?

A. They did work on that. Whether I hauled it to their shop or not I don't remember.

Q. And you paid them how much for doing this work? A. I don't recollect.

Q. If the books of the Honolulu Iron Works show that you paid \$50.00 would you say that was correct?

A. Yes.

Q. You are pretty sure you didn't pay any more than that? A. No.

Q. Was it more than a hundred dollars?

A. I wouldn't state to you now.

Q. Was it more than \$500.00?

A. I don't know, I don't think it was more than \$500.00.

Q. You are pretty sure that it wasn't?

A. That's the best of my knowledge and belief.

[1755—922]

Q. Now, then, how much did you pay to the Hono-

(Testimony of Frederick C. Miller.)

lulu Iron Works for those hawse-pipes?

A. I don't recollect.

Q. Have you any idea?

A. I couldn't tell you.

Q. You have no opinion? A. No.

Q. Was it as much as \$1,000.00?

A. When I tell you I have no idea I only know they were special made and we had to make a pattern and they was extra heavy.

Q. You've had a good deal of experience with the repairing of ships? A. I have.

Q. You've owned vessels? A. Yes.

Q. You've had to repair vessels a good many times? A. Yes.

Q. What is your judgment on those hawse-pipes?

A. My judgment on that line of work would be, in my judgment, that the hawse-pipes shouldn't cost over \$250.00 or \$300.00.

Q. Now, if the books of the Honolulu Iron Works show that you paid for one of those hawse-pipes \$71.25 and the other \$65.60, would you be prepared to say that is not correct? A. Yes, I would.

Q. You are sure?

A. They were both the same style and one wouldn't be more than the other.

Q. You are willing to swear that isn't correct?

A. I don't know.

Q. Here's a difference of \$6.00 and yet you say that the books of the Honolulu Iron Works, that those figures are necessarily incorrect?

A. I say that they were incorrect for this reason, both hawse-pipes are the same size and weight and

(Testimony of Frederick C. Miller.)

they charge more for one than for the other.

Q. In the total sum paid by you to the Honolulu Iron Works for their work and the materials supplied for those hawse-pipes, \$136.35 altogether. Would you be prepared [1756—923] to say that that figure was incorrect?

A. I think if their books show that it must be right.

Q. Is that a reasonably low figure for those two hawse-pipes? A. I think that's a low figure.

Q. You don't think it's too low?

A. I don't think they could be duplicated for that.

Q. You've had a good deal of experience?

A. I've had experience enough to know that was too low.

Q. If that's the amount they charged you, that must be right, and it's not so unreasonably low that you say it's incorrect?

A. I say if their books show that is the amount it must be right.

Q. Did you buy other hawse-pipes during the year? A. I'm not sure.

Q. Answer the question. A. I don't know.

Q. Did you buy any hawse-pipes during that year?

A. I had them make two or three sets of hawse-pipes for me.

Q. For the "James Makee"?

A. Only one set for the "James Makee."

Q. Did you have any other hawse-pipes made?

A. Yes.

Q. During that year? A. I don't remember.

Q. You aren't prepared to say?

A. No, you're talking about something four or five years ago.

(Testimony of Frederick C. Miller.)

Q. Now, then, Captain Miller, it took about a month to repair, to install that windlass and those hawse-pipes?

A. That's about my best knowledge and belief.

Q. And, according to your testimony this morning, the amount that you paid for the labor in that installing was about \$540.00?

A. Whatever it figured up, I didn't figure it up. I told you what men I had and what I paid. [1757—924]

Q. One engineer at \$150.00 for the month?

A. Yes.

Q. Three men, \$135.00?

A. Three firemen at \$45.00.

Q. Three men, \$180.00, that is, \$2.50 a day?

A. Yes.

Q. \$75.00 for one man? A. Foreman.

Q. That, amounting to \$540.00 is the amount that you, according to your best recollection, paid for the installing of that windlass in the way of labor?

A. Yes. You didn't ask me this morning whether there was any other work on it.

Q. I asked you if you had given all.

A. All the labor.

Q. I asked you if the \$4,500.00 comprised the amount you paid for the windlass, the amount you paid to the Honolulu Iron Works for the hawse-pipes, you later speaking up saying you paid something for labor; and the labor for installing.

A. Yes, and the piping.

Q. What kind of piping?

A. I had to connect the windlass up with the boiler.

(Testimony of Frederick C. Miller.)

Q. How much did that cost? A. I don't know.

Q. How much do you think? Where was it done?

A. I don't know. If you want to know what I think it cost?

Q. How much do you think it cost?

A. I think that the piping cost from seventy-five to eighty dollars.

Q. That would be the outside figures?

A. I'm giving you the best of my recollection.

Q. Now, what else was there?

A. There was the buttplate for it.

Q. Who supplied that?

A. We bought that there from Lewers & Cooke.

Q. What kind of lumber was it? [1758—925]

A. I don't remember. It shows for itself.

Q. What kind of lumber was it?

A. If I remember, it was oak.

Q. And how much lumber was there?

A. I don't remember just what it was.

Q. How much do you think?

A. Approximately, probably the lumber and the putting in. There was a lot of other—

Q. I'm not asking about these other things, I'm asking about the oak lumber.

A. There should not have been \$50.00 or \$60.00.

Q. That's the outside figure?

A. I would say that would cover it.

Q. That includes the price of lumber and putting it in? A. No, includes the price of lumber.

Q. How much for building that?

A. We took out the old windlass, located her new one and then put this buttplate.

(Testimony of Frederick C. Miller.)

Q. What did it cost according to your best judgment, for the installing of that buttplate after you purchased the lumber?

A. I would say two or three hundred.

Q. Who did it? A. Our own men did it.

Q. How long did it take to do it?

A. I don't remember.

Q. You have no opinion? A. No.

Q. Why do you say two or three hundred dollars?

A. Because a like job would cost me that now.

Q. Now, what else was there?

A. I don't remember what else.

Q. Anything else that you can think of? Was there anything else?

A. There may have been. I just remembered now since I've been on the stand of some things.

Q. Kindly refresh your memory as best you can and give us [1759—926] what else was done.

A. Let it go at that; I'm satisfied.

Q. You think that's all?

A. I think that's fair.

Q. And if the figures that I've given to you as shown by the books of Morgan, the Honolulu Iron Works, and the figures that you yourself have given, come up to \$1,221.75, how do you make up the balance of \$4,500.00 that you've testified to?

A. I don't make it up.

Q. Why did you say it cost you \$4,500.00 to put that windlass in?

A. The approximate price of putting it in I gave to our bookkeeper as \$4,500.00 and that was the time it was fresh in my memory. I just recollect now that the books—

(Testimony of Frederick C. Miller.)

Q. Where is the rest of the seventy-five per cent of the cost of installing of the windlass that you have testified to? A. Where is that?

Q. Where is the seventy-five per cent of the cost of the installing of the windlass that you have testified to?

A. I'm taking your figures. I'm not satisfied in my own mind that they are right.

Q. Will you kindly, at your return here to-morrow, consult with Mr. Morgan and the Honolulu Iron Works and ascertain whether or not the figures I've given you are correct?

A. If you've gotten them from them and say they are correct I'll admit them as a fact.

Q. I tell you that that is the fact.

A. I am satisfied.

Mr. OLSON.—If counsel for the Miller Salvage Company are willing to admit that those are the figures that the books of Mr. Morgan and the Honolulu Iron Works show? You admit that, Captain?

A. I told you if they told you that I was satisfied that was right.

Q. In other words, you take my statement that Mr. Morgan informed me that that was the figure that was paid for the [1760—927] windlass, \$105.00 and also that the Honolulu Iron Works informed me that \$50.00 was paid for work done on the windlass?

A. Yes.

Q. And the sum of \$136.75 for the hawse-pipes, and you're willing to accept my statement? And you are willing to admit that those are the amounts paid by you?

A. I will. One thing more before you close that

(Testimony of Frederick C. Miller.)

little account. What did Sorenson & Lyle charge me for reinforcing of bow and putting on those hawse-pipes?

Q. Is that a part of the installing of that windlass?

A. Most assuredly.

Q. Is that a part of the reconstruction of the bow that you testified to?

A. No, sir; that was done before the new bow was put in. We had to reinforce that bow so as to carry it. It's part of the work they done. I think they did it; I'm not sure.

Q. This was all done at the time that you purchased this, all around about the time that you purchased that anchor and had this work done by the Honolulu Iron Works, the installing of the windlass?

A. The purchase of the windlass. It took us about a month to put it in. I don't remember now when the windlass was put in.

Q. You bought that anchor—

A. Windlass.

Q. I mean windlass. You bought that windlass and had this work done on the windlass at the Honolulu Iron Works, procured from them those hawse-pipes and installed the windlass within what period of time? How long would you say from the time that you first purchased the windlass until you finally had the windlass installed on the "James Makee"?

A. Oh, from the time I first purchased that windlass until I had it installed?

Q. Yes.

A. I guess—I'm giving you the best of my knowledge,—about six or seven months. [1761—928]

(Testimony of Frederick C. Miller.)

Q. Six or seven months? A. I think.

Q. When was this work done by Sorenson & Lyle on the marine railway?

A. I don't remember. Oh, on the marine railway.

Q. I mean on the "James Makee"?

A. I don't know.

Q. Was it before you put that windlass in?

A. No, they was—this reinforcing of the bow, I think they done. I'm not sure.

Q. When?

A. They were doing it at the time—they had to do it at the time they put the hawse-pipes in.

Q. The windlass and the hawse-pipes were put in about the time that Sorenson and Lyle did this work on the "James Makee"?

A. Whatever time they put the hawse-pipes in. I don't know the time the windlass was installed.

Q. That was done as soon after you got the windlass from the Honolulu Iron Works as it was possible?

A. As soon as the Iron Works got through and I think it was then we done the work. Right after that it was put on the ship.

Q. Right after? A. A short time after.

Q. This work on the bow was done after the installing? A. It may have been but I don't think so.

Q. What had it to do with the installing of the windlass?

A. It was just possible you can put the windlass on first and then put the hawse-pipes between.

Q. Well, the hawse-pipes were installed at the time the work was done on the bow of the "James Makee"? A. About the same time.

(Testimony of Frederick C. Miller.)

Q. It must have been done at the same time?

A. I think so. [1762—929]

Q. How could the hawse-pipes be installed if it was not necessarily at the same time?

A. I think it was.

Q. It must have been.

A. Not necessarily must.

Q. Didn't you say that the repairing of the bow had something to do with the installing of the windlass and hawse-pipes?

A. The repairing of the bow had to be done before you could put the hawse-pipes in because the hawse-pipes that was originally there was only about eight inches diameter and these were twelve inches diameter and there was no way of passing them hawse-pipes. Those hawse-pipes weigh about four or five hundred pounds each.

Q. That being so, Captain Miller, how long was it after you received these hawse-pipes from the Honolulu Iron Works that they were installed?

A. After we got the hawse-pipes it couldn't have been long.

Q. Practically a little time?

A. Practically so.

Q. Within a month or two? A. Sure.

Q. Now, then, Captain Miller, if those hawse-pipes were delivered to you on or before the 12th day of November, 1906, this work on the bow of repairing the "James Makee," the work done must have been completed before the end of 1906, was it not?

Mr. MAGOON.—I object to it, it's merely his calculation.

A. Yes.

(Testimony of Frederick C. Miller.)

The COURT.—I think it's proper.

Q. You answered yes to the question? A. Yes.

Q. That, then, with the installing of the hawse-pipes must have been completed before the end of 1906 if the hawse-pipes were delivered to you by the Honolulu Iron Works on or about the 12th day of November, 1906?

A. It is reasonable to suppose so. [1763—930]

Q. You are pretty sure it was done?

A. I'm pretty sure.

Q. Sure that the work was done by Sorenson & Lyle?

A. Excuse me, one minute, Mr. Sorenson, Mr. Olson. I think they done the work. When I say Sorenson & Lyle done the work it is because they do most of my work.

Q. Who did it then if they didn't?

A. If they didn't there is other experts.

Q. Who did it?

A. I can't say. I had a gang of Chinese carpenters to replank on the "Kaimiloa." I've got Japanese carpenters.

Q. Isn't it the fact that you paid to Sorenson & Lyle the sum of \$482.07 on the 8th day of September for the work done that you have testified to?

A. I don't know, but if their books so show I will admit that that amount was paid to them on the 8th day of December, 1908, as shown by my books. I'd say so yes, 1906, in September, 1906.

Q. If from my examination of their books I found that you paid to them on September 8, 1906, the sum of \$482.07 to Sorenson & Lyle, is that not the sum that you paid them for the work of installing that

(Testimony of Frederick C. Miller.)

windlass and two hawse-pipes and repairing of the bow to which you testified?

Mr. MAGOON.—I object to that.

Mr. OLSON.—I'm willing to withdraw the question. Did you or did you not, on the 8th day of December, 1906, pay to Sorenson & Lyle the sum of \$482.07 for the work that you've testified that was done on the installing of that windlass and hawse-pipe?

A. I couldn't say whether I had or hadn't.

Q. Did you about that time?

A. I may have done it.

Q. Isn't it the fact, Captain Miller, that you paid almost \$500.00 for the work that you have testified to in the repairing [1764—931] of that bow and the installing of that windlass and hawse-pipe, other than the figures that you gave to me previously?

A. I think that the repairing of that bow and those other figures cover it. I don't know of anything else. I don't remember.

Q. \$500.00 would be about the right figure?

A. \$500.00 would be the right figure.

Q. That would be your estimate in the same way that you estimated these other amounts? A. Yes.

Q. Now, then, Captain Miller, if \$500.00 covers that, then with these other figures I find that it totals the sum of \$1,721.78. Where do you get the rest of \$4,500.00 that you testified to? A. Give it up.

Q. You are pretty sure that you were wrong?

A. No, I'm not.

Q. How do you make it up?

A. I don't recall now. I don't say that I'm wrong.

Q. You're a practical seaman? A. I am.

(Testimony of Frederick C. Miller.)

Q. You're a master mariner? A. I am.

Q. You have been master of boats?

A. I am the holder of a license in these Pacific waters.

Q. As a practical seafaring man, is it possible for you to recall any other work that was done?

Mr. MAGOON.—I submit, may it please your Honor—

The COURT.—I've passed that.

Mr. MAGOON.—Your Honor rules that this question can be asked over again?

Q. Now then, Captain, as a practical seafaring man and master mariner, as an owner of vessels for many years, having had a great deal of experience in the matter of repairing of vessels and knowing a great deal about vessels, is it impossible for [1765—932] you to recall what else was done except what you've already testified to?

A. It's impossible for me to recall.

Q. As a practical seafaring man, master mariner, owner of vessels, having had much and extensive experience in repairing of vessels, you cannot recall to your mind any other thing than what you've testified to here?

Mr. MAGOON.—Object to it on the ground it has been already answered.

The COURT.—I'll allow the question.

Mr. MAGOON.—I want your Honor's ruling on that question.

Mr. OLSON.—I wish to alter the last question. Instead of saying "Can you not recall any other thing?" in place thereof, "Can you not recall any

(Testimony of Frederick C. Miller.)

other thing which might have entered into the installing?"

A. I can recall a good many things.

Q. What?

A. What I had to know of, we had to put in a new piston in the cylinders.

A. Cylinders of the winch.

Q. Catton-Neil did it? A. I did.

Q. Are you sure?

A. I'm not sure. We might have had to put in a good many things to it. I don't recall many more important details.

Q. In regard to this piston, if Catton-Neil did not do it what other firm did it except Catton-Neil and the Honolulu Iron Works? A. None other.

Q. Catton, Neil & Co. are doing business at the present time? A. Yes.

Q. And can testify? A. Sure.

Q. Did they do it? A. They did it.

Q. Do you mean to say that you took that windlass over to the Honolulu Iron Works and then took it over to Catton-Neil?

A. I said I don't remember now whether I sent the windlass to the Honolulu Iron Works [1766—933] or whether I took it to the Hackfeld wharf.

Q. In other words, it is possible that Catton-Neil might have done it? A. They might have done it.

Q. You don't remember, do you?

A. I think they put it in. I know we had to have it done.

Q. How much would that cost?

A. It wouldn't cost anything more than eighteen

(Testimony of Frederick C. Miller.)

or twenty dollars.

Q. What other item is there?

A. I told you I knew of no other large item of expense that we've entered into because of that windlass.

Q. And you believe that there is nothing else that could have entered into it of any importance?

A. Of any importance that would cut any figure.

Q. So out of this \$4,500.00 all you can explain is about \$1,800.00?

Mr. MAGOON.—Object to it, it has been answered.

The COURT.—Objection sustained.

Q. Now then, Captain Miller, this work then was all completed, was it not by the end of 1906?

Mr. MAGOON.—I object to the question on the ground Captain Miller stated he couldn't say positively.

Q. It having been admitted by you, Captain Miller, that the installing of this windlass and the hawse-pipes and the repairs and the repairing that you've testified to was completed by the end of 1906, will you testify what else was done on the "James Makee" from that time on during the year 1907?

Mr. MAGOON.—I object to the form of the question.

The COURT.—I sustain the objection.

Q. If it's true that the installing of that winch, that windlass and the hawse-pipes and the repairing that you've testified to in connection with their installing, isn't it true that that was completed somewhere about the end of 1906?

The COURT.—I allow the question.

(Testimony of Frederick C. Miller.)

A. I think so. You can tell better than I. If those bills [1767—934] state that I paid that money at the end of 1906 then I would say that the windlass was put in in 1906.

Q. You bought the "Makee" in 1906?

A. When did you say those bills were?

Q. November 12, 1906, was the last bill.

A. On the "Makee"?

Q. On the "Makee."

A. Then I would say by the end of 1906 this windlass was installed.

Q. It was?

A. I would say that would be my evidence now to you.

Q. You are sure it was not absolutely at the end of that time? A. About that time.

Q. Now then, in order that the record may be clear, I'll ask counsel to admit that the last of those hawse-pipes was delivered to Captain Miller on the 12th of November, 1906.

Mr. MAGOON.—We don't admit it.

Mr. OLSON.—Now then, Captain Miller, since this point is not absolutely disposed of in the record, how long after the acquisition by you of the "James Makee" from the Inter-Island Steam Navigation Company was it until this work of installing the windlass and hawse-pipes was completed?

A. How long afterwards?

Q. Yes, how long after that, after you bought her?

A. I would say—I'm giving you the best of my judgment—I would say five or six months.

Q. That would bring it near sometime in 1907, wouldn't it?

(Testimony of Frederick C. Miller.)

Mr. MAGOON.—I object on the ground that it's a conclusion.

A. I don't remember when that was, before or when.

Q. You say within five or six months?

A. Within that time.

Q. Did you spend any other money on the "James Makee" for installing this windlass?

A. She's been a constant bill of expense. [1768—935]

Q. What did you do in the way of repairing her from the time that you purchased her?

A. I'd have to get my books and Sorenson & Lyle's books and show you how much.

Q. I'm asking you to approximate it. From this windlass and hawse-pipe?

A. Why, Mr. Olson, I couldn't give you an idea.

Q. How was that?

A. I couldn't give you an idea. I could say I've spent on it from six to eight thousand.

Q. Before the end of 1907?

A. From the time I bought her.

Q. Up to 1907?

A. Up to 1907, not taking into consideration that windlass.

Q. Didn't you return for taxation the "James Makee" on or about the first part of 1908, didn't you swear in your tax return in the Territory of Hawaii, that the "James Makee" was then worth \$3,500.00?

A. I don't know.

Q. Do you deny that you did?

A. I deny any knowledge of it. I never kept the

(Testimony of Frederick C. Miller.)

books of the company and I never made up the tax returns.

Q. You never swore to that tax return?

A. I don't say I didn't swear to it. The bookkeeper bring me the tax bills to swear to and I swore to them and turned them in.

Q. You don't know whether or not you swore to any such tax return?

A. I think as a matter of fact I was president of that company with the exception of the short time Eben Low was president and when the bookkeeper brought me the tax returns I'd swear to them.

Q. Are you in the habit of swearing to statements of that sort whether you know they are true or not?

Mr. MAGOON.—Object to it.

Q. Are you in the habit of swearing to statements without knowing whether or not they are true?

A. Invariably I've been in the habit of taking the accounts [1769—936] that's in my books without a personal knowledge myself.

Q. You knew that you had spent this large sum?

A. Sure, I paid \$4,500.00 for her, cash, and then put in that windlass and spent five or six thousand.

Q. Did you look at the tax returns?

A. I didn't notice. Had I noticed it was \$3,500.00, I'd have stopped it right then. You can bet on that.

Q. You paid \$4,500.00 for the "James Makee"?

A. That was the original price that I paid for her.

Q. You said a few moments ago that the "James Makee" has been a continual source of expense to you?

A. Yes.

Q. She still is?

(Testimony of Frederick C. Miller.)

A. We've been improving her continually.

Q. She still is?

A. We haven't finished up our improvements on her yet.

Q. You call the improvement of the vessel a source of expense, do you? A. Sure.

Q. Aren't some of those improvements of upkeep, for keeping her up?

A. Yes. The consumption of coal and the paints and oil, I don't consider that.

Q. I'm asking you about the source of expense in her repairing and not in the running expenses.

A. Well, it's pretty hard to separate the running expenses sometimes, from the—from her improvements. We are spending money yet I told you all the time.

Q. She requires it, doesn't she?

A. Not more than any other wooden ship.

Q. Her condition is such that she requires it?

A. Sure, every ship does.

Q. She wouldn't be in a useful condition unless you did? A. That's a fact. No other ship would.

Q. How old is she?

A. I don't know. I should [1770—937] say twenty or thirty years old.

Q. Over thirty years old, isn't she?

A. Possibly.

Q. Has her hull ever been reconstructed?

A. I don't think there's a piece of her original hull.

Q. She's been repaired so much?

A. She's been rebuilt practically.

Q. Is the "Makee" here in the city?

(Testimony of Frederick C. Miller.)

A. She's here in port.

Q. She can be examined any time?

A. She can be examined any time.

Q. How old is the "Mokolii"?

A. The original "Mokolii" is, I guess, is nearly thirty years old.

Q. How old is the "Kaimiloa"?

A. As near as I can figure, I looked up her history, I should tell you about sixty-five or seventy years old. Whenever the first boat crossed the Firth of Forth and she was built two years prior to that.

Q. How old was the "Concord"?

A. About sixty years old.

Q. The "Concord" sixty years old?

A. Oh, now, I don't remember. I think she's about in the neighborhood of twenty-eight or thirty years old.

Q. And they are all wooden vessels?

A. All wooden vessels.

Q. All of them now in first class condition?

A. No.

Q. What is the condition?

A. The "Kaimiloa" is in good condition, the "Mokolii" is repairing; the "Concord" could take fifteen ton.

Q. They were all in first-class condition in December, 1909? A. No, they were not.

Q. Isn't it the fact that the boats strained out all the timbers? A. No, sir.

Q. Were they new timber?

A. They were new timber.

Q. What about the "Kaimiloa"?

(Testimony of Frederick C. Miller.)

A. The "Kaimiloa," brand new [1771—938] bitts and windlass.

Q. And the "Concord"?

A. The "Concord's" windlass was not good.

Q. What about the bitts?

A. The chock and bitts—I don't say the "Concord's" bitts were torn out.

Q. They weren't?

A. If the record shows that I said so it was because her bitts were torn out.

Q. The "Makee" and "Kaimiloa" and that other boat had bitts torn out?

A. The "Makee" had her bitts torn out and the "Kaimiloa" had her bitts torn out. No other boat had her bitts torn out. The "Concord" had her windlass.

Q. What was the condition of the timbers around the bitts? A. They were good.

Q. First-class condition? A. Bright new wood.

Q. What?

A. Bright new wood. The "Concord" shows now.

Q. When were they repaired? When had they been repaired prior to that time so that this wood was new?

A. I think I put that chock, the "Kaimiloa," in myself. The "Makee," I put on her bitts myself. The "Concord's" chocks, I don't remember whether I put them in or whether Sorenson & Lyle put them in. They just spent \$1800.00 on the "Concord" and I bought the "Concord" from them.

Mr. OLSON.—Move to strike what Sorenson &

(Testimony of Frederick C. Miller.)

Lyle paid for the "Concord." It's irrelevant and furthermore it is hearsay.

The COURT.—Motion is granted.

Q. How much did the "Concord" cost when you purchased her?

A. The "Concord," when I first purchased her, I think I paid \$800.00 or \$850.00. \$800.00 or \$850.00; somewhere in the neighborhood of that.

Q. I think you testified a few moments ago that Sorenson & Lyle had spent \$1800.00.

A. So they did.

Q. And you bought it for \$800.00 or \$850.00?
[1772—939] A. Yes.

Q. How did you happen to get her at such a low price?

A. This Sorenson & Lyle, as they explained it to me, repaired the "Concord" for a man named Dutot. Captain Dutot couldn't pay the bill and they said they didn't want it themselves, they'd be willing to lose the balance of the bill if I'd give \$800.00 or \$850.00.

Q. How much did the "Mokolii" cost?

A. The "Mokolii" when I first purchased her cost me \$350.00.

Q. How long ago?

A. I couldn't tell you. I think six or seven years; say in the neighborhood of six.

Q. That's the boat that you've put at \$8,000.00.

A. That's the one.

Q. How much did the "Kaimiloa" cost you?

A. The "Kaimiloa" don't belong to me—didn't cost me anything; I hired her.

(Testimony of Frederick C. Miller.)

Q. To whom did she belong?

A. Pacific Oil and Transportation Company.

Q. Did you purchase that boat for them?

A. No, sir.

Q. Did you ever buy it from them? A. No, sir.

Q. How do you know she's worth \$2,000.00?

A. I base that on this: Scrap Iron Brown paid, but I don't know this of my own knowledge, paid for her \$1,000.00.

Q. You don't know that of your own knowledge?

A. I know she's insured for \$1500.00.

Q. What did you pay for the "Elizabeth"?

A. "Elizabeth," when I first bought her, if I remember right, we paid \$8,000.00.

Q. What's her present value?

A. Present value, \$4,000.00. That was her value then.

Q. How long ago is it since you bought the "Elizabeth"?

A. I don't remember, Mr. Olson, how long ago.
[1773—940]

Q. About how long ago?

A. It was two or three years ago.

Q. How long had you owned this six or seven ton anchor that you used out there in those salvage operations, prior to the time of the salvage operations?

A. I owned that since the day it came back from the "Manchuria."

Q. How long was that before the salvage operations? That was in 1906?

A. You've got that day.

Q. September, 1906? A. Yes.

(Testimony of Frederick C. Miller.)

Q. And what did you pay for that?

A. I paid for the anchor and some other material which was thrown in with it, if I remember right, \$4,500.00.

Q. You don't know what the anchor itself—I'll drop this line of cross-examination for the moment and return to the tax assessments. I will show you—I show you, Captain, a document which is labeled, "Property Tax Assessment Schedule for the District of Oahu, Island of Oahu, 1908. Statement of Miller Salvage Company," and I ask you to look at the signature on that document. I ask you if that is your signature, "Frederick C. Miller"?

A. That's my signature.

Q. And that's in your handwriting?

A. That's my handwriting.

Q. Was this tax return made by you?

A. Let me see if the rest is my hand—if the rest is my handwriting.

Q. The tax returns?

A. That is my handwriting.

Q. I'll ask you to refer to the first item.

A. Steamer "James Makee."

Q. I ask you if that is in your handwriting, "Steamer 'James Makee' "? A. That is.

Q. What is the value according to your returns?

A. That's stated here as \$3,500.00. [1774—941]

Q. Now, then, I'll ask you to read the oath that you took to that tax return. Did you swear to that tax return?

A. I think I did. It's reasonable to suppose I did.

Mr. WEAVER.—I object to that as not responsive to the question.

(Testimony of Frederick C. Miller.)

Q. Didn't you swear to it?

A. I suppose I did. I don't think they'd take it without it.

Q. Is not the oath, "I do solemnly swear that the list herein contained and the values herein stated are true and correct to the best of my knowledge, information and belief, so help me God. Frederick C. Miller."?

A. That's what it is.

Q. Is that correct?

A. That's correct.

Q. Is it admitted that this is the tax return of Mr. Miller. Is it the tax return that you made?

A. I think it must be.

Q. Is it?

A. It's in my handwriting. I stated that.

Mr. WEAVER.—Captain, will you look at this oath or statement, "I do solemnly swear," and so forth, over your signature, and say whether or not you did or did not swear to that at that time?

A. I can't say whether I did or didn't. I don't want to be misunderstood in this thing. I tell you frankly that if I didn't swear to it I should have done so.

Mr. OLSON.—You intended to.

A. I probably did or else I wouldn't have wrote it.

Mr. WEAVER.—Did you know—was this paper signed that way?

A. I probably signed that way.

Mr. OLSON.—Now, Captain Miller—what, Captain Miller, was the value of that anchor that you bought which was used out there at the "Celtic Chief" operations, if you know?

A. What was the value of it? [1775—942]

Q. Yes, at that time.

A. I should say about \$2,000.

(Testimony of Frederick C. Miller.)

Q. How much? A. \$2,000.

Q. You owned that in 1908, did you not?

A. Yes.

Q. Didn't you, in this tax return, make it \$800.00?

A. No.

Q. You did not?

A. If it's not on there I did not make it.

Q. Will you examine this tax return and see if you did? A. These anchors mean one.

Q. All, that included?

A. It might and might not.

Q. You owned it at that time? A. I owned it.

Q. So you make a property tax return of \$800 for anchors which included this six or seven-ton anchor?

A. Is this personal property of Miller Salvage Company?

Q. Personal property of the Miller Salvage Company. A. Yes, we owned it at that time.

Q. Was that a fair value or not? A. \$800.00?

Q. Yes. A. For all my anchors?

Q. Yes.

A. I don't think so. I wouldn't have sold them for that.

Q. Why did you return it at that?

A. Because it—

Q. You were trying to have a low assessment maybe? A. Probably that was it.

Q. You intended that the Government should accept as a return of your property, a figure far below the value, is that correct?

A. Whether I intended or not, it is evident that I did right there, because I wouldn't have sold the anchor for \$800.

(Testimony of Frederick C. Miller.)

Q. In other words, this was a representation by you to the Territory of Hawaii? [1776—943]

A. That's what it is.

Q. And you intended to defraud the Territory of Hawaii when you put in a return of property which you now say is obviously too low?

Mr. WEAVER.—Object to it; incompetent, irrelevant, and immaterial.

A. Repeat the question.

Mr. OLSON.—So that there should be no question, I'm willing that the Court should advise the witness; it's been suggested by counsel, and I'm willing that the Court should advise the witness.

The COURT.—You know your constitutional privilege. If you desire you don't have to answer that question.

A. I don't care to answer it in the form that Mr. Olson put it, because it is rather obnoxious to me I'll say this, your Honor, with reference to this—

The COURT.—I think the question is proper. You have your privilege.

A. I wish to make this explanation. I'm speaking of myself. I don't think that I put down as the valuation of my property just what I'd sell it for or what I personally think it's worth, and I'll also say that I don't think that I have any desire to defraud the Territory or anyone else.

Mr. OLSON.—Now, as I understand it, the witness has not used his privilege?

The COURT.—No.

Q. Now, then, Captain Miller, you say that you did not intend to defraud the Territory of Hawaii when

(Testimony of Frederick C. Miller.)

you put in as your return the value of your anchors at \$800 when you say that one anchor alone that you had at that time was worth \$2,000.00.

A. Yes, I'll say that I didn't intend to defraud the Territory of Hawaii or anyone else.

Q. You didn't intend, then, to defraud the Territory of Hawaii [1777—944] by making a return that was about one-quarter, actually over fifty per cent less than the value of one of those anchors?

A. Yes, that's right.

Q. But you did intend the Territory of Hawaii to believe or the tax officials of the Territory of Hawaii to believe that that was the real value of all of your anchors?

A. If they didn't want to take my word for it they could go and look at it themselves.

Q. But you made that return in order that they should take them as a valuation and you gave them your word to that effect.

A. I gave them my word to that effect.

Q. You made that representation? A. I did.

Q. And intended that they should assume that that was the value of those anchors?

Mr. WEAVER.—I submit that question has been asked and answered in the first place.

The COURT.—I would infer from what he has testified already that he's answered that question, but I'll allow the question.

A. Yes.

Q. How many other anchors did you have at that time besides this big six or seven-ton anchor? When I say you, I mean the Miller Salvage Company.

(Testimony of Frederick C. Miller.)

A. I don't remember.

Q. You had others? A. Yes.

Q. How many others do you think?

A. Probably two or three.

Q. How much were they worth?

A. I don't recollect the size of the others.

Q. What was their value approximately?

A. Oh, they'd run all the way from \$50.00 to \$200.00.

Q. A piece? A. A piece. [1778—945]

Q. This one large anchor and four or five others?

A. Two or three others.

Q. One would be \$50.00?

A. Say from \$50.00 to \$200.

Q. Each you mean? A. Each.

Q. That is, they might have been worth \$600 altogether. A. They might have been.

Q. And you think they were worth \$600?

A. The three?

Q. Yes. A. I don't think the three anchors.

Q. How much were they worth altogether?

A. The three anchors would be worth probably \$200.00.

Q. How much did the largest of those weigh?

A. I don't remember.

Q. How much do you think?

A. I don't own them now, so I don't know.

Q. Can't you judge?

A. I've owned a dozen anchors.

Q. Were those the anchors that you had on board at the time of the "Celtic Chief" operations, these three or four anchors?

(Testimony of Frederick C. Miller.)

A. I had no other anchors except those that were on the ship, except this big anchor.

Q. That's what you are referring to when you say you had three or four?

A. No, I didn't refer to the ship's equipment. I owned anchors more or less aside from the ship's anchors. Every one of our boats have two anchors aside from those in the yard.

Q. You think that anchor was worth \$2,000.00?

A. I think it was worth \$2,000.00.

Q. Do you know the value of that anchor was fixed at when you bought it? A. Yes.

Q. How much?

A. I think, if I remember right, Medcalfe told me it was worth—

Q. I'm asking you what the value was fixed at for the purpose of sale.

A. No, I do not. [1779—946]

Q. Who sold it to you? A. Medcalfe.

Q. Did Hackfeld & Co. have anything to do with that?

A. Medcalfe's business went through Hackfeld & Co.

Q. And the money was paid to Hackfeld & Co. by you?

A. Medcalfe owed me a bill in the neighborhood of \$4,400 or \$4,800, and we paid it off this way.

Q. The Miller Salvage books will show? A. No.

Q. You had no books.

A. There is no record of that transaction.

Q. Why not?

A. I think it was before the incorporation of the

(Testimony of Frederick C. Miller.)

Miller Salvage Co.

Q. But that transaction was handled through Hackfeld & Co., was it not?

A. Not as far as I was concerned. I settled up with Captain Medcalfe.

Q. Who else was there? A. Klebahn.

Q. Mr. Kelbahn knew, did he not, about that transaction of that anchor and those tackles?

A. I don't think he did.

Q. He did not? A. No.

Q. The only man who knows anything of that is out of the Territory? Captain Medcalfe?

A. Captain Medcalfe.

Q. And he is in San Francisco?

A. San Francisco.

Q. And you're the only one in the Territory who knows what was paid to Medcalfe for your anchor and tackle? A. As far as I know.

Q. What else was there besides that anchor?

A. Well, hawsers.

Q. How many?

A. I don't recollect how many.

Q. Don't you know?

A. No, I can't remember how many. Quite a number of them.

Q. Five or six dozen hawsers? [1780—947]

A. Oh, no.

Q. How many then?

A. I should say four or five.

Q. What were the sizes?

A. They ran all the way from an inch and a half to four inches.

(Testimony of Frederick C. Miller.)

Q. What were they? A. Wire hawsers.

Q. How long were they?

A. They ran in lengths, if I remember right, from three hundred to a thousand feet.

Q. That would be four or five wire hawsers anywhere from three hundred to a thousand feet long?

A. Yes.

Q. Those hawsers had been used, had they, in the "Manchuria" operations?

A. I understood they had.

Q. For several weeks? A. No.

Q. How long?

A. I'm only giving you from the best of my memory. I believe Medcalfe was working two or three weeks.

Q. And they laid there and they were used for that period of time?

A. Some of them were in use.

Q. Which ones were in use?

A. The one that I used on the "Celtic Chief" was the one that was used with the same anchor.

Q. How long was that?

A. The "Celtic Chief," the line on the "Celtic Chief," if I remember right, was 900 or 950.

Q. What is the price charged for that kind of a cable? A. I think I can tell you.

Q. Let's have it. A. I think I can.

Q. This is for a new cable. You're giving now a price, are you, for a new cable of that kind?

A. Exactly.

Q. All right; let's have what that kind of cable would cost.

(Testimony of Frederick C. Miller.)

A. A two and a quarter costs \$2.20 a foot, a two and a half costs \$2.75. [1781—948]

Q. Now, what other lines did you have?

A. From Medcalfe or on the "Celtic Chief"?

Q. From Medcalfe?

A. We had some inch and a half.

Q. How's that?

A. I bought four or five hawsers from him.

Q. What other lines did you have that you bought from him? A. That's all.

Q. That was all you received beside the anchor?

A. The anchors and those lines and I think a pair of blocks.

Q. What kind of blocks were they?

A. If I remember right, they were blocks for about five-inch lines.

Q. What's the value of those two blocks?

A. Possibly \$50.00 a piece.

Q. What is the value of the other three or four cables besides the big one?

A. Approximately a thousand dollars.

Q. A thousand dollars? A. Approximately.

Q. Now, what was the value of that big cable then in the condition that it then was if a new cable would be worth the amount that you have already testified to?

A. It was worth just the same, Mr. Olson, as a new cable would have been worth.

Q. What, \$2.25 a foot? A. \$2.50.

Q. Either \$2.20 or \$2.50? A. Yes.

Q. Which was it? Was it \$2.25?

A. I think it was.

(Testimony of Frederick C. Miller.)

Q. Then at \$2.20 and if it was nine hundred feet that would be \$1,818.00.

A. If that's what it figures up.

Q. And the other lines were worth a thousand?

A. Yes.

Q. It was \$1,980.00; I made a mistake.

A. If that's what it figures.

Q. At \$2.20 a foot? [1782—949] A. Yes.

Q. And the other lines are worth a thousand?

A. Approximately.

Q. That would make \$2,980.00 for the lines?

A. Yes.

Q. And the anchor you would figure at \$2,000.00 also? That would make that total figure about \$4,980.00? A. Yes.

Q. How did it come you got it for \$4,500.00?

A. Let me tell you, Mr. Olson, that business—

Q. You didn't pay \$4,500.00 you mean to say?

A. I didn't have no \$4,500.00.

Q. Did you pay \$4,500.00? A. I think I did.

Q. Do you swear you did?

A. I do, to the best of my knowledge and belief.

Q. Don't you know?

A. I don't know to a dollar.

Q. It was approximately that amount?

A. Approximately.

Q. Do you know there are other anchors?

A. No other like it.

Q. In San Francisco? A. Nor anywhere else.

Q. No such anchor? A. No.

Friday, August 25, 1911.

Q. I believe you testified, Captain Miller, on direct,

(Testimony of Frederick C. Miller.)

that the tackle, anchor-lines, and so forth, in fact all of the appliances which you had in use on the "Celtic Chief" while she was aground in December of 1909, outside and exclusive of your boats, your vessels, were worth, at that time, approximately \$12,-000.00? A. I did.

Q. That is your testimony, is it?

A. That's what I said; yes.

Q. You, of course, know, you must know what property you [1783—950] had in use in that way in order to give that valuation? A. Yes.

Q. Do you know what you had there in use?

A. Yes.

Q. And you have considered the various items that go to make up the appliances?

A. I have never figured it up. I can figure it up right now, if *you me* to.

Q. You had among those appliances this large anchor, did you not? A. Yes.

Q. What is the weight of that anchor?

A. It is said to be seven ton.

Q. Do you know that it was seven ton?

A. No, I did not.

Q. Captain Medcalfe called it seven ton?

A. He called it seven ton.

Q. You are sure he didn't call it a five ton or ten thousand pound anchor? A. I am sure of it.

Q. You're absolutely positive of that?

A. He never called it that to me.

Q. You really don't know whether it was seven ton or five tons? A. I wouldn't swear.

Q. It might just as well be five tons as seven tons

(Testimony of Frederick C. Miller.)

so far as you know?

A. No, because my own judgment of the anchor is that it weighs more than five tons.

Q. You had also this large two and a quarter-inch steel cable that you used?

A. Yes, either two and a quarter or two and a half.

Q. Now, what else did you have?

A. Twelve-inch manilla hawser.

Q. How long was that twelve-inch manilla hawser?

A. Fifty fathoms to the best of my knowledge.

Q. That is about how many feet?

A. That would be three hundred feet.

Q. New? A. Brand new.

Q. Where did you buy that?

A. From McCable, Hamilton, [1784—951] & Renney.

Q. At that time? A. No.

Q. How long before?

A. I think about a year before.

Q. It had not been in use in the meantime?

A. Never had been put in the water before.

Q. Now, then, will you state what else you had?

A. We had two blocks that belonged to our line leading from the anchor towards the ship. Two blocks, triple blocks.

Q. Two triple blocks? A. Two triple blocks.

Q. Were those the blocks that you purchased from Captain Medcalfe? A. No.

Q. They were not? A. They were not.

Q. Will you state what size those blocks were?

A. Blocks that would carry an eight-inch rope.

Q. They were eight-inch blocks? A. Yes.

(Testimony of Frederick C. Miller.)

Q. Where had you obtained those blocks?

A. Those blocks I think we purchased from the Inter-Island. I think they ordered them for me.

Q. When? A. I don't remember.

Q. Can you state approximately?

A. No; their books will show. That's before the Miller Salvage Co., were ever organized and that's the first time those blocks were ever used.

Q. It was sometime between 1904 and 1907?

A. I don't know.

Q. You know, do you not, Captain Miller, that you first came to the Islands in 1904? A. About 1904.

Q. Was it before 1904?

A. I came to the Islands in 1904.

Q. And you incorporated the Miller Salvage Company sometime in 1907? A. I think it was 1907.

Q. Then it was between those two dates that you bought those blocks from the Inter-Island.

A. Yes.

Q. What did you pay?

A. I don't remember, but [1785—952] my recollection is \$120.00.

Q. That is for two? A. For the two of them.

Q. And they had never been used until used out there, had they?

A. Never had a rope rove through them.

Q. What was their value in December, 1909?

A. Well, it was the same value as they were when I bought them because they had never been used.

Q. \$120.00.

A. About that. I'm giving you now approximate figures.

(Testimony of Frederick C. Miller.)

Q. That's what you regard as their value in estimating your equipment? A. No, sir, Mr. Olson.

Q. What value did you fix?

A. A value is what is useful for me at the time and not what I paid for them.

Q. You would regard them a thousand dollars?

A. They were worth that.

Q. Is that the way you fix this value?

A. Yes, on some of it.

Q. It's not the market value of the property that you take into consideration?

A. The market value of a thing is one thing and what it would be worth is another thing.

Q. I'm asking you a definite question.

A. What's the question?

Q. Did you value these appliances in the way that you have just suggested, namely, what you regarded as their value now, at that time? A. Yes.

Q. That's the way?

A. That's the way I value a thing.

Q. Kindly state what did you value these blocks at? A. I couldn't put any valuation on them.

Q. Didn't you fix some value on those blocks in estimating before?

A. No, I didn't. I have told you before I didn't itemize what I had. I'm [1786—953] willing to do it.

Q. Those blocks could be purchased for \$120.00?

A. No, sir, they cannot because those are special blocks.

Q. What can they be purchased for?

A. I don't believe they can be purchased in the market.

(Testimony of Frederick C. Miller.)

Q. What is that belief based upon?

A. That belief is based upon the fact that I got them made to order.

Q. Is \$200.00 a fair value, market value?

A. If you sold them at auction you might not get more than \$200.00. In my business they are worth a thousand.

Q. I'm asking what blocks of that kind can be purchased for.

A. I haven't bought any since I bought those.

Q. Will you kindly state what, according to your best recollection, what those blocks could be purchased for? A. At that time?

Q. Yes.

A. One pair of those could have been purchased—I don't know if anyone else could have bought them as cheap as I did. I paid \$120.00.

Q. How much more would an ordinary person not having any special pull have to pay, the cost of them?

A. They charge you \$50.00 or \$60.00 more.

Q. Somewhere in the neighborhood of \$200.00?

A. Somewhere in the neighborhood of \$200.00.

Q. Or \$170.00?

A. Somewhere in the neighborhood of \$200.00.

Q. What other appliances did you have?

A. We had a coil of seven-inch manilla rope.

Q. Was it a new coil? A. Brand new.

Q. How many feet?

A. A coil of manilla runs in the neighborhood of one hundred and twenty fathom.

Q. Or about? A. About seven hundred feet.

Q. Where had you purchased that?

(Testimony of Frederick C. Miller.)

A. I don't remember but I [1787—954] think at the Inter-Island Ship Chandlery.

Q. What was the value of that seven inch, what was the market value? What could a seven-inch line like that be purchased for at that time?

A. I don't know.

Q. You have no opinion?

A. I have no opinion just now.

Q. Have you no cordage tables now?

A. I haven't the cordage tables.

Q. When did you buy that line?

A. I can't tell you that. Don't remember. We carry in stock two or three coils of that sort of stock and we can't tell you when we bought them.

Q. How's that?

A. We always carry three or four coils of that sort of stock.

Q. Does the price of that kind of rope change or vary very much from year to year? A. No.

Q. It would be about the same in 1909 then as it is now? A. I think it's a little higher.

Q. And you have absolutely no opinion, no idea whatever? A. Yes, I have some idea.

Q. What a seven-inch manilla line, six hundred feet— A. I have some idea.

Q. How much?

A. It will run. At that time manilla rope ran about nine or ten cents a pound, I believe it is fourteen now.

Q. It doesn't make any difference what particular size the rope is, you pay for it by the pound?

A. The size does make some difference.

(Testimony of Frederick C. Miller.)

Q. How much, at that time, did you say that rope ran?

A. I'm giving you my idea, about, I think, ten cents a pound.

Q. What would be the weight of a six hundred foot coil of manilla rope, approximately?

A. I don't remember it.

Q. Have you no opinion whatever?

A. I can give you an opinion of the cost of the coil, but I can't give you an idea of the [1788—955] number of pounds.

Q. Can you give me approximately the cost of that line? A. Approximately?

Mr. WEAVER.—I object to this question as immaterial on the ground that it asks for six hundred pound and the testimony is one hundred and twenty feet.

Mr. OLSON.—I'll alter my question and I'll ask you what would be, what was the price at which that kind of a rope could be purchased at the ship chandlery in December, 1909. I'm speaking of the seven-inch manilla rope, one hundred and twenty—

A. To the best of my knowledge, ten cents a pound.

Q. And you don't know how many pounds?

A. I don't remember.

Q. You think it's about ten cents a pound?

A. I think that.

Q. Don't you know as a matter of fact, Captain Miller, that it takes about eight feet of a seven-inch manilla hawser to make one pound?

A. No, I don't remember just how many.

Q. Are you familiar with Tubb's Cordage Tables?

(Testimony of Frederick C. Miller.)

A. I've seen that.

Q. Is that a standard work?

A. Yes, I'll accept it as standard.

Q. I'll now refer you, Captain Miller, to Tubb's Cordage Tables showing the approximate weight, length, and size of manilla rope. I'll ask you to refer to that table. A. I have not got my glasses.

Q. I'll let your attorney help you out. Is that correct, Captain Miller, eight feet to the pound, seven-inch manilla hawser? A. That's correct.

Q. Are you sure about 125 fathoms to the coil?

A. I don't think. About 120.

Q. And about how many feet to the fathom?
[1789—956] A. Six foot.

Q. That would be 720 feet, then, to the coil?

A. Yes.

Q. Well, then, if it takes eight feet of that kind of rope to make a pound, it would be ninety pounds?

A. Oh, no, there is more than that.

Q. I'm asking you if this table is correct.

A. Oh, there must be something wrong about that. I know better than that.

Q. Is it eight pounds to the foot?

A. If it says that.

Mr. WEAVER.—As the attorney of the witness may I read the column following, the next column, 125 fathom in coil, the number of pounds is 1125.

A. That's more like it.

Mr. OLSON.—And you think ten cents a pound.

A. I think that would be a fair price.

Q. That would make \$112.50, would it not?

A. Yes, I told you \$120.00 that was the cost.

(Testimony of Frederick C. Miller.)

Q. Now, then, let's have the next item in this list of appliances. A. Another set of triple blocks.

Q. Two blocks?

A. Two blocks, a set is always two.

Q. How large were those blocks?

A. Those blocks were made to carry a six-inch line.

Q. Where did you get those blocks?

A. I don't remember whether that set was a set that I bought from Medcalfe or another set that I purchased from the Inter-Island.

Q. Did you have some blocks there that you had bought from Medcalfe? A. Yes.

Q. In use at the time?

A. I don't remember. We've got quite a number of those blocks and I don't [1790—957] remember just where I got them, but I purchased no other blocks except what I purchased from the Inter-Island, from Medcalfe, and also from Hackfeld I bought two, three, or four sets.

Q. Now, then, Captain, don't you sometimes figure the sizes of blocks by inches?

A. That's the way they're figured as a rule.

Q. How many inches were those blocks that you referred to first?

A. I don't recall now the size. I had Captain Campbell write to Pittsburg and have those blocks made to order.

Q. What was the size?

A. I think they were twenty-four inch.

Q. What would then be the size of the second set?

A. If the first was twenty-four, the second would probably be twenty-two.

(Testimony of Frederick C. Miller.)

Q. You are sure they were not eighteen?

A. No, I'm not sure but I don't think they were.
That may be the size of the third set.

Q. Then you had two blocks on your second tackle?

A. Yes.

Q. What you call your first luff tackle?

A. Yes.

Q. Will you state what you think the value of those blocks was in December, 1909, meaning by that what they could have been purchased for at that time?

A. They might have been purchased for \$100.00.

Q. \$100.00, that's what you think?

A. They might have been purchased for that.

Q. That would be the same now, would it?

A. About the same.

Q. Now, then, what is the next item in the list of your appliances?

A. Five-inch fall through them.

Q. That's a five-inch line? A. Five-inch line.

Q. Manilla hawser? [1791—958]

A. Manilla line.

Q. What was the length of that?

A. Same length.

Q. That was a coil? A. A coil.

Q. Now, what would be the weight of that coil?

A. That will give it in the same way.

Mr. WARREN.—I'd like to remark that the witness says 120 fathoms and these figures are based on 125 fathoms to a coil.

Mr. OLSON.—Captain Miller, I refer to Tubb's Cordage tables again and ask you if it is not correct that 5,200 pounds is the weight of a five-inch manilla

(Testimony of Frederick C. Miller.)

hawser? A. Yes.

Q. That is correct?

A. That's correct to the best of my knowledge.

Q. Could that be purchased at a lower rate than the other line?

A. I think not. I think the difference between five and seven would be about the same.

Q. About ten cents a pound?

A. About ten cents a pound may have been a little bit more. I don't think it any less.

Q. Captain, I wish to go back a moment to the original line that you testified to, namely, this seven-inch hawser that you used on the main tackle, and I again refer you to this table and I'll ask you if you didn't make a mistake there and if, as a matter of fact, it isn't true that a manilla line seven inches in circumference would weigh 1125 pounds?

A. That's what we stated.

Q. Now then, as to this second line, this five inches in diameter, I mean five inches in circumference, is not the weight of that 562 pounds, according to the table and not 5,200? It wouldn't be 5,000 pounds?

A. No, no, no. 562, yes.

Q. A few moments ago when you testified to a coil weighing 5,200 pounds, that meant a manilla line which was five inches in diameter? [1792—959]

A. Yes.

Q. But you had no line that was five inches in diameter? A. No.

Q. Then, at ten cents per pound, which I understand to be the rate at which that would sell, that would be \$62.20, would it not? A. Yes.

(Testimony of Frederick C. Miller.)

Q. That's for 125 fathoms? A. Yes.

Q. That, then, would be the rate at which that line could have been purchased at that time?

A. About that.

Q. Now, what was the next item in the list of your appliances? A. Another set of treble blocks.

Q. Were they treble blocks or double blocks?

A. Treble.

Q. What was the size of those blocks?

A. I don't remember the size, but they were intended to carry a four or five inch line, five-inch line.

Q. Weren't those what are called eighteen-inch blocks?

A. They probably would have been eighteen-inch.

Q. Are those the blocks you bought from Captain Medcalf?

A. I don't know whether I bought those blocks from Captain Medcalf or from the Inter-Island.

Q. You bought a set of blocks you said yesterday, from Captain Medcalf?

A. Yes, my best recollection is that the first line was the Medcalf blocks.

Q. They were good blocks? A. Most assuredly.

Q. The blocks you bought from Captain Medcalf were in first class shape? A. First class shape.

Q. Were they as good as new.

Q. What then, Captain Miller, would you say was the value of your blocks on the third tackle in December, 1909, meaning by that what they might have been purchased for at that time?

A. They might have been purchased from sixty to seventy dollars. [1793—960]

(Testimony of Frederick C. Miller.)

Q. Is that the price you regard at which they could have been purchased? A. Yes.

Recess.

Q. Now, you say you think they were eighteen-inch blocks?

A. They may have been. I know by the size of rope that they would reeve.

Q. And I think you testified that the amount they could be purchased at—at that time was sixty dollars? A. They might have been.

Q. Sixty or seventy dollars?

A. They might have been.

Q. Well, that is your best judgment now.

A. I'm giving you my best judgment.

Q. You think those are the blocks you bought from Medcalfe?

A. We're talking about the third set. I think the first luff was the ones.

Q. The first luff?

A. I know distinctly the first luff was the one I purchase from Inter-Island. The second luff, it's my impression, is the Medcalfe. The second luff.

Q. You didn't have a third luff?

A. Yes. I didn't have a third luff. I had the main tackle and one luff and one luff on that.

Q. That's the third purchase you're talking about?

A. Yes.

Q. In order that we may have the record absolutely clear, you bought the blocks that you used on your main tackle, from the Inter-Island? A. Yes.

Q. You bought the next blocks, you think, from Captain Medcalfe? A. I did.

(Testimony of Frederick C. Miller.)

Q. And the third blocks you bought from whom?

A. May have been the Inter-Island, may have been Hackfeld; I don't remember.

Q. And these blocks that you think you bought from Captain Medcalfe I think you testified were worth, at that time, meaning by that what they could have been purchased for, about \$100.00. [1794—961]

Q. And the blocks you bought from Captain Medcalf were as good as new?

A. The blocks I bought from Captain Medcalfe were as good as new.

Q. Now then, the next in the list of your appliances was what? You have told us about the blocks on the third purchase.

A. The two coils of rope that was not my own, borrowed from the Inter-Island.

Q. That's the line that you borrowed from the Inter-Island?

A. Borrowed from the "Celtic Chief."

Q. So that this three and a half inch manilla hawser that you used on the third purchase tackle did not belong to you?

A. The blocks were mine, but not the rope.

Q. I thought you testified that you had two short pieces of one and one-half inch steel cable that you used to re-enforce the twelve-inch manila hawser which connected your main wire, anchor to the first purchase tackle? A. I did.

Q. Whose lines were those?

A. Belonged to the "Celtic Chief."

Q. They did not belong to you?

(Testimony of Frederick C. Miller.)

A. They did not.

Q. Now, then, what is the next item, then, that belonged to you, in the list of your appliances after the blocks in the third purchase tackle.

A. The wire straps.

Q. What did they consist of?

A. They consisted of the wire straps and the couples. They consisted of inch and a half steel wire. They were spliced so as to make a long strap with a hardwood couple.

Q. How many of those inch and half steel wires are there in such a strap?

A. Cost about \$25.00 a piece.

Q. The straps cost about \$25.00? A. Yes.

Q. How many straps of those did you have?

A. We had four of them.

Q. In use of the "Celtic Chief"?

A. I don't know if they were all in use. I know that there were two of them in use. I know [1795—962] there were two and I think that's all we used.

Q. You think that two was all you used?

A. We carried out four and I think two and two cables was all we used.

Q. \$50.00 would cover the straps, the rate at which they could have been purchased at that time?

A. Yes.

Q. That includes the whole strap?

A. That includes the strap.

Q. What is the next item in the list of your appliances? A. The toggles.

Q. How do you spell that? A. T-o-g-g-l-e.

(Testimony of Frederick C. Miller.)

Q. How many toggles were there?

A. We carried out four toggles and four straps.

Q. How many straps did you have in use?

A. Have in use?

Q. How many toggles in use?

A. I think only two.

Q. What could those be purchased for at that time?

A. They are made to order, about twelve or fifteen dollars.

Q. Each? A. Yes.

Q. Two of them? That would make about twenty-five or thirty dollars? A. Yes.

Q. What was the next item?

A. The next item was a spare coil of rope that we used to run the main purchase from the foremast of the "Celtic Chief."

Q. What kind of a tackle was that?

A. That wasn't a tackle; a spare coil.

Q. Manilla hawser?

A. Manilla and then we had also a wire on that.

Q. Let's find out how much of that manilla hawser there was.

A. I can only give you approximately.

Q. How much at the utmost?

A. At the utmost wouldn't amount to much, probably twenty or thirty fathoms.

Q. At the utmost 180 feet? A. Oh, yes.

Q. Now, what was the circumference of that line?

A. If I remember right, that was a six-inch line.

Q. Six-inch line, 180 feet long? [1796—963]

A. Yes.

(Testimony of Frederick C. Miller.)

Q. That was a new rope?

A. All rope that we used there was brand new and none of it had been used before except that one I had obtained from Medcalfe.

Q. Now then, coming to this tackle, Captain Miller, these blocks on the tackle, a six-inch line, manilla hawser, having 125 fathoms to the coil would weight eight hundred pounds is that correct?

A. Yes, if that's what I stated in the table, that's correct.

Q. Well, then, thirty fathoms of manilla hawser, would be about one-quarter of a coil?

A. About one-quarter of a coil?

Q. Therefore, the weight of that would be one-quarter of 800 or 200? A. 200 pounds.

Q. That, you say, could be purchased at ten cents a pound? A. Ten cents a pound.

Q. That would be worth about \$20.00?

A. \$20.00.

Q. You spoke of another line.

A. I think that re-enforcing.

Q. Were they wire too? A. I'm not sure.

Q. How many wires?

A. I think that would be thirty fathoms.

Q. What kind of wire? A. Inch and a half.

Q. Steel wire? A. Steel wire.

Q. And what would be the value of that?

A. That would be worth about \$30.00 or \$40.00. Say approximately thirty or forty dollars.

Q. Thirty or forty? A. I should say that.

Q. Would it be more than thirty?

(Testimony of Frederick C. Miller.)

A. It might be forty. Thirty or forty would be fair.

Q. What other item did you have in the list of appliances out there? A. Surf line.

Q. A surf line? A. Yes. [1797—964]

Q. What did you use that surf line for?

A. Running to the anchor from the ship. We took her from the anchor to the "Celtic Chief" in order to haul the main hawser aboard.

Q. That was the only other item?

A. That's the only other item.

Q. How long is that surf line?

A. That's a full coil, 120 fathoms.

Q. What is the size of that line?

A. Four inch line.

Q. Four-inch, manilla hawser? A. Yes.

Q. Isn't that a part of the equipment of one of your boats? A. Them lines were.

Q. You didn't figure this then as a part of \$12,000.-00.

A. It's not part of the boat's equipment. It's a part of the salvage company's equipment.

Q. You wouldn't figure that as a part of the value of the boat? A. No.

Q. What's the—withdraw that. Referring again to Tubb's Cordage Table, a four-inch manilla hawser, a full coil of 125 fathoms of that would be 375 pounds, would it not, Captain Miller? A. Yes.

Q. And what rate could that be purchased at at that time? A. About ten cents.

Q. That would be \$27.50 for that line?

(Testimony of Frederick C. Miller.)

A. About that.

Q. What is the next item in the list of your appliances?

A. That was practically all of our appliances used outside of the boats.

Q. And that is what you have estimated at \$12,000.00? A. Yes.

Q. Now, what was the value of that big anchor that you used, at that time?

A. I figure that anchor was worth \$2,000.00.

Q. And you have also a steel wire?

A. Hawser. [1798—965]

Q. Hawser from the anchor to the tackle which was two and a quarter inches in diameter, and what did you figure the value of that line at?

A. I forget now. We figured the other day here.

Q. \$2.20 per lineal foot, did you not?

A. I think it was.

Q. And there were how many feet? Nine hundred?

A. Nine hundred feet to the best of my recollection.

Q. That would be approximately \$2,000.00?

A. That would be approximately \$2,000.00.

Q. And that makes up the entire list?

A. Exactly. One minute; I just happened to think of something. We had a buoy and wire hawser to the anchor.

Q. What kind of a buoy was that?

A. That buoy was a gasoline drum that had been sent to a blacksmith and had some bands put around it and I had it for a marking buoy.

(Testimony of Frederick C. Miller.)

Q. That drum was a drum that you had purchased gasoline in, was it not? A. Yes.

Q. Any empty one?

A. Well, it cost me \$11.00.

Q. Made up into a buoy?

A. And the blacksmith's work, if I remember right, was in the neighborhood of \$32.50.

Q. In addition? A. In addition.

Q. About \$43.50?

A. About \$43.50 for the buoy and on that buoy, if I remember right, was twenty fathom of five-eighths wire, steel.

Q. That would be 120 feet? A. 120 feet.

Q. What would be the value of that?

A. Of the buoy and the line all together you put down, let me see, say about \$65.00 or \$70.00.

Q. That includes the drum, the whole business?

A. The whole business.

Q. Now, have you completed the list of your appliances?

A. As near as I can remember. [1799—966]

Q. All right.

A. Now, excuse me one minute; that is what, as near as I can remember, what we actually used, but when we were out there we put on the "Makee," two suits, diving suits, a diver, and also two pumps.

Q. You didn't use them at all?

A. We didn't use them.

Q. You said you had two pumps?

A. Two sets of apparatus complete.

Q. What is the value of those two diving sets of apparatus?

(Testimony of Frederick C. Miller.)

A. Those cost me, as near as I can remember, \$896.00 landed here in Honolulu.

Q. \$896.00? A. Each.

Q. Where did you buy them?

A. I bought them at Boston.

Q. When did you buy them?

A. I bought them since I've been here. Quite a long time previous to that.

Q. Previous to what?

A. Previous to the "Celtic Chief."

Q. After the incorporation of the Salvage Company? A. I owned them before.

Q. Did you buy them direct or did you buy them through an agent?

A. I bought them direct and have the bills for those, I think.

Q. Will you produce them?

A. I will try to do so.

Q. How much did they cost you?

A. They cost me \$897.00 landed here. It cost so much in Boston and I had to pay insurance.

Q. Now, then, Captain Miller, I have added up the list of values that you have given of this list of appliances exclusive of the two sets of diving apparatus—

A. And the steam pumps? We had steam pumps aboard the "Makee."

Q. You had steam pumps in addition to the diving apparatus?

A. Yes. I think I stated that. [1800—967]

Q. What did you use them for?

A. We didn't use them. When we left the dock

(Testimony of Frederick C. Miller.)

we expected to find that ship bilged and we took out the diving apparatus and two steam pumps.

Q. What kind of pumps?

A. That was a twelve inch, direct acting centrifugal made by Lawrenceville Pump Works, Massachusetts.

Q. The first was what?

A. Twelve inch, direct acting centrifugal.

Q. And the second was what?

A. The second one was a twelve inch, Blake pump that Medcalfe had used. The only time it had been used. Medcalfe had used it out on the "Manchuria." We had three, the other one a Blake Wrecking pump. That was a twelve inch, direct acting Blake Wrecking centrifugal.

Q. Now, then, we'll take that big pump first. Where had you purchased that?

A. From the Blake people direct.

Q. Did you once sell that to Captain Medcalfe?

A. No, I didn't sell it.

Q. It was not used by Captain Medcalfe?

A. No, I didn't sell it.

Q. It was not used by Captain Medcalfe?

A. There were two Blake pumps.

Q. The wrecking pump, when did you buy that?

A. I sent east and bought it brand new.

Q. What did that cost you landed here?

A. I think it cost in the neighborhood of \$800.00.

Q. \$800.00 landed here?

A. That's the best of my recollection.

Q. You don't remember when you bought it?

A. No, I don't.

(Testimony of Frederick C. Miller.)

Q. How many years have you had it—to the best of your recollection?

A. To the best of my recollection I've had it about three years.

Q. You bought that since the Miller Salvage Co. was incorporated? [1801—968] A. I think so.

Q. Now, let's have the cost of the Blake pump.

A. I got that from Medcalfe.

Q. How much did you pay him for it?

A. I didn't know I paid him anything for it.

Q. What is the value of that kind of pump?

A. \$1,850.00, was the net price of that pump.

Q. Was it a new pump?

A. Brand new. I think he used it a little.

Q. Isn't it the fact, Captain Miller, that Captain Medcalfe sold you that pump?

A. I didn't know he did. I think he gave me that for expert services rendered him.

Q. Sure of that?

A. Well, I'm pretty positive of it.

Q. Didn't you pay him \$800.00 for that pump?

A. He may have figured at \$800.00.

Q. Are you prepared to say that he didn't sell it to you for \$800.00?

A. I am not prepared to say what was any price collected upon that pump.

Q. I'm asking you whether he sold that for \$800.00.

A. I don't think he did. I think he gave me that pump because he wanted that pump left here in Honolulu.

Q. Why did he give you that pump?

(Testimony of Frederick C. Miller.)

Mr. MAGOON.—I object to that, doesn't make any difference why he gave him that pump.

Mr. OLSON.—I'll withdraw the question. Did you ever buy any other pump from Captain Medcalfe than this big pump? A. No.

Q. That's enough to satisfy me for the time being. That value then is how much?

A. The value of that pump is \$1,850.00.

Q. And that was its value at the time you had it there at the "Celtic Chief"?

A. It was. [1802—969]

Q. Now then, the third pump.

A. The third pump was a ——— direct acting, twelve-inch pump.

Q. Where did you get that?

A. Direct from Massachusetts.

Q. And when?

A. Subsequent to the incorporation of the Miller Salvage Company.

Q. And how much did you pay for it?

A. I think we paid \$750.00, I'm not sure, but I think \$750 for that pump there, and then we paid the freight.

Q. How much did that amount to?

A. About \$800.00.

Q. Landed here? A. Landed here.

Q. Including freight and purchase price, \$800.00?

A. Prepaid.

Q. Now, then, that third pump?

A. That is the third pump.

Q. Where were these kept?

A. One was on deck, two of them down in the hole.

(Testimony of Frederick C. Miller.)

Q. Whose deck? A. "Makee's" deck.

Q. None of them were used at all?

A. None of them were used.

Q. Now, according to the figures that you have given, Captain Miller, the highest figures that you have given, the value of the appliances that you had in use on the "Celtic Chief," added up, amounts to \$4,766.20. Captain Miller, that's about right?

A. Well, if you've added up there I would say that was right.

Q. And when I made up the value of all the appliances of which you have spoken, including the pumps and diving apparatus, including all of the appliances, those which were in use and those which were not in use, the figure that I get, according to your testimony, is \$10,028. Where do you get the balance?

A. Right aboard the "Makee" [1803—970] there is \$500.00 more blocks and at least two or three thousand kept—

Q. Why didn't you say that there was this appliance?

A. That boat was equipped for anything that might occur, and part of her equipment—and the pumps were a part of her equipment.

Q. When you said a few moments ago when you gave me the values of these pumps that you had given me all—

Mr. MAGOON.—Object to that.

The COURT.—Objection overruled.

Q. Did you not say that you had given to me the entire list that you had finished?

A. Mr. Olson, I may have said that if the record

(Testimony of Frederick C. Miller.)

shows it, but I couldn't sit down now and give you an inventory of the "Makee" and what she's got, blacksmith tools.

Q. Are those included in the above valuation of the "Makee" that you have given?

A. No, they are not.

Q. You've not included that in the "Makee" in your value of \$1500.00?

A. The "Makee's" equipment and the salvage appliances used aboard her were two separate things.

Q. Did you include all of these appliances in your valuation of \$12,000.00?

A. Roughly, yes. Rough.

Q. Not all of them?

A. No; I told you roughly we had about \$12,000.00 worth of stuff aboard when we went out to the "Celtic Chief." That's what I meant to imply. We used whatever was necessary and whatever wasn't necessary we didn't use.

Q. Now, then, Captain Miller, the value of the appliances which you had that you used on the "Celtic Chief" operations and through those operations was approximately \$4,800.00? A. That's the cost.

Q. And the rest of these appliances you didn't use at all?

A. Didn't use except that I've told you. [1804—971]

Q. You didn't use them?

A. I told you that I did not use them.

Q. I think you testified yesterday, did you not, Captain, that this large anchor that you bought from Captain Medcalfe, the value of that fixed between

(Testimony of Frederick C. Miller.)

you and Captain Medcalfe was \$2,000.00? Is that correct?

A. I don't know what the anchor was set down for, but this is what Medcalfe told me, that that anchor was worth \$2,000.00.

Q. And that was the amount you agreed upon?

A. You won't let me tell you about, the truth about that Medcalfe business, Medcalfe and Captain Pillsbury rang up, they took me out of bed at twelve o'clock at night, and asked me what was the best method of pulling off the "Manchuria," and I was in constant consultation with them from that time until she came off, and when they had finished the work on the "Manchuria" he had certain appliances, and he said, "Captain, I'm going up and cannot be coming here to float ships. This is the second time this anchor has been here and I don't want to come down again. The people that I represent would like to have this pump and this anchor sold, kept here in Honolulu, so that we won't have to pack it back and forth. We'll give you a good opportunity to get them, obtain those for a good deal less than the cost, for a small, nominal sum." He said, "That anchor is worth \$2,000.00. The cost price of that pump is \$1850.00. I'm going to make a price on it so you can keep it here."

Q. That's what I want you to tell about, the price you paid, \$4,500. A. I don't know.

Q. Isn't that what you testified to?

A. I testified to an occurrence that occurred four or five years ago with the "Manchuria" that, as near as my recollection goes, I had a bill against him for

(Testimony of Frederick C. Miller.)

\$4,400.00 or \$4,800.00. I don't know just how it was settled. He made a liberal settlement with me and in that settlement he said, "There are reasons why I can't put this in as expert services, what [1805—972] you done on the 'Manchuria,' and I can't put this down as expert services, but I will fix it this way so you will get square; it will be just the same." And what the terms of settlement was, I don't remember now.

Q. You were paid \$1,800.00, I believe, on the 9th day of October, 1906, for services in connection with the "Manchuria," the "James Makee" having been used in that connection?

A. No, sir. I don't know what you're reading from. I don't know that I got \$1,800.00. He may have allowed me in the bill.

Q. Do you deny—

A. I deny using the "Makee" on the "Manchuria."

Q. Do you deny that through H. Hackfeld & Co., Ltd., you were paid in cash, \$1,800.00 for services in connection with the "Manchuria"?

A. Well, they may have paid me \$1,800.00, as I said. I don't say they did or they didn't. I know there was a settlement made. When you spoke of the "James Makee" I remembered perfectly well. I didn't have the "James Makee."

Q. You didn't have the "Makee" for twelve days picking up anchors?

A. That was after the "Manchuria" was floated.

Q. Picking up anchors. That was in connection with the "Manchuria" operation?

(Testimony of Frederick C. Miller.)

A. We did pick up anchors long after the "Manchuria" was afloat.

Mr. MAGOON.—I object.

Mr. OLSON.—I now offer to show—I offer to connect.

The COURT.—I'll allow the question.

A. What's the question, please?

Q. Then, as a matter of fact, that had nothing to do with the \$4,400.00 that you paid Captain Medcalfe for this anchor and gear and stuff that you bought?

A. I don't know whether it was or not. We did pick up [1806—973] anchors long after the "Manchuria" was floated and went away from here. The "James Makee" went out there and picked up some anchors. I don't remember what was paid for that.

Q. Now, then, in connection with the floating of the "Celtic Chief," of the "Manchuria"—

Mr. MAGOON.—I ask to have that portion of the answer with reference to the floating of the anchors, stricken out.

The COURT.—Motion overruled.

Q. Now, then, Captain Miller, I want to get definitely whether or not this \$1,800.00 that you were paid for the services of the "James Makee" formed a part of the purchase price which you paid to Mr. Medcalfe for this anchor and gear and so forth.

A. It may have been and may not. I do remember, or don't remember just now. That occurred over three or four years ago. Just how that was settled up.

Q. If the books of H. Hackfeld & Co. of Honolulu

(Testimony of Frederick C. Miller.)

show that you were paid that amount in cash on the 9th day of October, 1906, for the services of the "James Makee," as I have heretofore stated, then are you prepared to say still that this amount may have been included in the amount that was paid to Captain Medcalfe for that anchor and gear?

Mr. MAGOON.—Now, I object to the question, your Honor, because it's wholly inadmissible, based upon hypothesis that if the books of Hackfeld & Co. show this then what do you say?

The COURT.—I'll allow the question.

A. No, I wouldn't believe Hackfeld books in regards to my transaction with Medcalfe and Company.

Q. Are you prepared to say that if their books show that that was paid, \$1,800.00—

A. I would be prepared to say I didn't get it.

Q. Are you—you would say you didn't receive it?

A. I wouldn't say that I didn't receive it, but I would not take their books. [1807—974]

Q. Will you say whether you did or did not receive it? Will you bring in your books?

A. No, I have none on that.

Q. You have not? A. I have none on that.

Q. Now, then, Captain Miller, I think you said that you paid in this settlement with Captain Medcalfe, \$4,400.00 according to your best recollection, for the anchor, the big wire cable, and two or three other steel cables. Now, I want to ask you, Captain Miller, if it isn't the fact that in this transaction between you and Captain Medcalfe you agreed upon the sum of \$650.00 as the price of the anchor which you pur-

(Testimony of Frederick C. Miller.)

chased from him in that transaction?

A. He may have figured that. I've explained it easily. In whatever figures he rendered Hackfeld was one thing and our personal deal another, that was another. I tried to make clear to you, Mr. Olson, how it was that those pumps and that anchor and those steel hawsers was given to me, what he estimated them and I estimated them to be worth.

Q. I'm asking you for a definite statement of fact, whether that was not the figure you figured that anchor at with Captain Medcalfe?

A. I don't remember the estimate. It's absurd on the face of *the fact* of it because the anchor is worth more than that for old iron. It's worth more than \$650.00 to cut up in the rolling-mill.

Q. You are prepared to swear that's so?

A. To the best of my knowledge and belief.

Q. You are basing that on the knowledge of that anchor?

A. I'm basing that on the knowledge of anchors.

Q. You state it is worth that for old iron. Is that an exaggeration or is that the fact?

A. That's an exaggeration. It is worth \$18.00.

Q. \$18.00 a ton for scrap iron?

A. For scrap iron. [1808—975]

Q. In other words, it is worth \$128.00 for scrap iron? A. That's right.

Q. Didn't you agree in the—didn't you agree with Captain Medcalfe in this statement that you made with him that that anchor was a 10,000-pound anchor?

A. I did not. I don't remember of doing it.

(Testimony of Frederick C. Miller.)

Q. You might have? A. I might have.

Q. You said Captain Medcalfe told you it was a seven-ton anchor?

A. He spoke of it as a seven-ton anchor.

Q. In the statement between you and Captain Medcalfe, you agreed upon that that was a ten thousand-pound anchor?

Mr. MAGOON.—I object.

The COURT.—The Court agrees that they, it appears in record in the statement, it might have been only ten thousand pounds.

Q. Isn't it the fact that in this statement with Captain Medcalfe you agreed upon as to the price of all of the wire cable that you purchased from him, in that statement agreed upon the sum of \$875.00 for the whole, including this big 2¼ inch steel hawser and the other steel cables that you have referred to, \$875.00?

A. I don't know what—I don't remember what. I never saw any papers.

Q. You didn't?

A. No, nothing. I don't know what you are reading from. I never saw any papers. Our business was directly between with Captain Medcalfe and Captain Pillsbury. We represented the British Lloyds and there was no papers or anything of that sort.

Q. They made that settlement without a statement? A. That's the fact.

Q. You are prepared to swear under oath?

A. Yes.

Q. As a witness in this case? A. Yes.

(Testimony of Frederick C. Miller.)

Q. That H. Hackfeld & Company did not deliver to you on the [1809—976] 9th day of October, 1906, voucher signed by them covering this transaction showing that that anchor was agreed upon by you and J. Medcalfe at the sum of \$650.00 and various steel wires, all of them, \$875.00. Do you deny that they did? A. No, I—

Q. Do you deny that they ever delivered to you a voucher upon the settlement of that account?

A. I don't; no, sir. I don't remember the facts of the matter. That Captain and Pillsbury were talking and Klabaum came out and Medcalfe and I finished our business and our settlement with that. One second; he wanted to get the office records of the Hackfeld Co. It appears that Hackfeld was concerned in the business and Klabaum came back and brought something to show the balance. It may have been a voucher and I may have signed it.

Q. You remember that Mr. Klabaum brought it to you?

A. I remember he came back with something, said that they had to have something in the office to show that part of the transaction.

Q. Kindly produce that voucher.

A. I have not got it.

Q. What did you do with it?

A. I don't know whether it's a voucher or not.

Q. It's a voucher showing the payment by you and the amount paid?

A. That they signed or I signed?

Q. They signed.

A. If that is it, I probably looked it over and threw it away.

(Testimony of Frederick C. Miller.)

Q. You don't have it? A. It may be—

Q. Are you sure that you threw it away?

A. I'm not.

Q. Will you kindly examine your papers and ascertain? A. Sure! I'll have the boys in the office—

Q. I request you to make that search. [1810—977]

A. I'll do that.

Q. Now, you purchased many other things in addition to those anchors and cables at the same time from Mr. Captain Medcalfe; some other things, didn't you?

A. I think there was an additional purchase of a steel hawser that I never used and sold to the Transport "Sheridan."

Q. Didn't you buy this big pump?

A. Sure! I told you that.

Q. \$800.00?

A. I didn't say it was \$800.00; I don't remember.

Q. Was it?

A. I told you what the price of it was. I don't know what the account had for settlement. I keep reiterating to you the price of those things so much.

Q. You never said upon your examination some of the things were for services rendered, expert services rendered? A. No, I did not.

Mr. MAGOON.—I ask that be stricken out; it has been asked and answered.

Q. Didn't you say a few moments ago that \$800.00 was the price of that pump?

A. No, I don't think I did. I told you that the entire price of that pump was \$1,850.00. I don't remember what it was put down in the account for.

(Testimony of Frederick C. Miller.)

Maybe \$800.00. It may have been \$200.00. He may have put it down.

Q. Didn't you say he gave you that pump?

A. No, he may have given it. My impression is that the pump, he didn't—didn't enter into the calculations at all. That is my impression.

Q. And you say it's down for \$800.00?

A. I'm not saying anything of the sort.

Q. You bought those two wooden blocks at the same time, didn't you? A. There were two blocks.

Q. These two treble blocks that you have already testified [1811—978] to?

A. I've testified that there was a pair of wooden blocks to the best of my recollection that was among that salvage gear.

Q. Didn't you pay him \$36.00 at that time for those blocks?

A. I don't remember whether I paid him anything.

Q. Didn't you also buy a rigging screw and some bundles of oakum and some blocks and a wire-cutter?

A. I don't remember whether I bought them or he gave them to me. There was a lot of oakum and a lot of rigging screws and wire-cutters and things of that sort.

Q. Now, then, Captain Miller, isn't it true that these items that I've spoken of, these other items, the wire-cutter, the blocks, the oakum, the rigging screw, in your settlement, were figured at the sum of \$127.50? A. I don't know that it was.

Q. Isn't it the fact?

A. I don't want to say that's the fact.

Mr. MAGOON.—I object to that.

(Testimony of Frederick C. Miller.)

The COURT.—I think the examination is proper.

Q. Have you no idea?

A. I have no idea what price he put upon that oakum or wire-cutter.

Q. Now, then, Captain Miller, isn't it the fact that, aside from the question of whether or not you purchased these various things at a low price or a high price and the reasons for the price that was placed upon them, isn't it the fact that the actual price agreed upon between you and Captain Medcalfe for these various articles and the price at which the settlement was made for those articles was exactly \$3,413.50?

A. It may have been or may not have been.

Q. Have you no recollection?

A. I have no recollection. My recollection is that the cost of those things was \$4,400.00. He may have made out a slip of paper making it \$2,400.00. If you state it is so and give me the difference between \$2,400.00 [1812—979] and \$4,400.00 for my expert services on the "Manchuria."

Q. Then this \$1,800.00 for the services of the "Makee" didn't enter into this transaction at all?

A. The services of what?

Q. What you were paid for the services of the "Makee."

A. I don't know whether or not it did or not; I don't remember. It's a transaction that occurred at least four years ago.

Q. Isn't it the fact that you said the bill for the services of the "James Makee" and the bill for the purchase price of this anchor and appliances that

(Testimony of Frederick C. Miller.)

you purchased from Medcalfe on the same day, namely, October 9, 1906?

A. That may be—yes, I do remember that. We made one complete settlement on that day.

Q. And the whole of that figure amounts to about \$4,400.00 for the “Makee”?

A. It might and might not.

Q. Might that not be, as a matter of fact, the figure that you had in mind, namely, the price that you paid for those appliances and the figure for the services of the “James Makee,” making a total of \$4,400.00? Isn’t that what you had in mind?

A. He told me he was going to help me for helping him with the “Manchuria” and I aided him materially.

Q. And you don’t know what the account was?

A. I don’t know. I know Medcalfe sent for me and took me out of bed twelve o’clock at night, and I think I was there until three o’clock in the morning, and every time he came from the “Manchuria” he sent for me, he said that he thought I understood it. He would come to me. And other services of that kind. And “we recognize you have been of use to us and we’ll treat you right, and so on.” What he fixed in his books or what Hackfeld dug up I don’t know.

Q. You accepted their voucher showing this settlement? You knew about it?

A. Sure! Medcalfe said, “There [1813—980] are those things. I’m going to put down \$2,400.00. They are worth \$4,400.00. We’ll fix that up and sign the vouchers so that our vouchers will be right.

(Testimony of Frederick C. Miller.)

Q. And you still say that that anchor was worth \$2,000.00?

Mr. MAGOON.—I object to that, it's answered.

A. I said that anchor was worth to me on the "Celtic Chief" \$12,000.00.

Q. That's the way you figure its value?

A. Sure! The "Mauna Loa," if I put her up at auction she'd sell for about \$125,000.00. She is worth to the Inter-Island Co., \$225,000.00. That anchor would not be worth nothing if it isn't worth \$17,000.00.

Q. That's the way you figure?

A. I wouldn't sell it to-day for \$2,000.00 cash.

Q. Don't you know that that big anchor when you received it after the "Manchuria" was afloat—when you purchased that line from Captain Medcalfe it was pretty rusty?

A. No, sir, it wasn't, if I remember. It's never rusty and, by golly, the Hawaiian Dredging Co. got the same anchor-line at \$25.00—

Q. It's not rusty now?

A. It was not rusted by us before the Hawaiian Dredging Co. bought it.

Q. It would not be rusty after you got through using it at the "Celtic Chief" operations?

A. As soon as we took it from the Hackfeld wharf we dipped it in the oil-tank, oil-tanks, and kept them there.

Q. Did you sell those big blocks to the Hawaiian Dredging Company?

A. The same blocks I used on the "Celtic Chief" I've got.

(Testimony of Frederick C. Miller.)

Q. All of them?

A. I've sold sets of blocks since and if I haven't got them I've disposed of them.

Q. We're interested only in the appliances you had in use there.

A. I'd be almost willing to say that the same blocks we got now aboard of the "James Makee."

Q. Have you the largest ones that you had in use?
[1814—981]

A. Yes, I've got the largest ones that I had in use. I've got them right now aboard the ship.

Q. Can you run an inch rope through these big blocks? A. Not only one, but four.

Q. An eight inch?

A. An eight-inch rope, it was sold to me for a seven and I've run an eight inch through it. But you don't understand me. I don't say to you that I had an eight inch on the "Celtic Chief." I told you it was a seven inch, stated distinctly it was a seven-inch rope, but we put an eight inch through it.

Q. The "Concord" has an anchor, has it?

A. Two.

Q. Two anchors? A. Yes.

Q. How large are those anchors?

A. "Concord's" anchors are about—I'm giving you from memory, Mr. Olson—I think about five or six hundred pounds each.

Q. Perfectly amply for the "Concord"? Quite ample for the "Concord"?

A. Ample for the "Concord."

Q. The "James Makee" has anchors on her?

A. Yes.

(Testimony of Frederick C. Miller.)

Q. How many? A. Two.

Q. What are the sizes of those?

A. Yes, she has two. That's another one I forgot to tell you. She had some anchors aboard her; then, too, we took additional anchors out, but she has two of her own.

Q. How large are those?

A. "Makee's" anchors are about equal to them two, two thousand and the other about twenty-five hundred.

Q. And they are quite ample to hold the "James Makee." A. They are able.

Q. What about the "Kaimiloa"? A. Nothing.

Q. But you had other anchors on the "James Makee" at that time? A. Yes. [1815—982]

Q. Which could have been transferred to the "Kaimiloa"? A. No.

Q. Why not?

A. Because when the "Kaimiloa" was alongside the "Celtic Chief" the "James Makee" was ashore.

Q. But those anchors could have been transferred?

A. Oh, they could have picked up anchors in town and put them aboard the "Kaimiloa."

Q. How were the anchors of the "Makee" and the "Concord" attached, by chains? A. By chains.

Q. Strong anchor chains? A. Yes.

Q. Perfectly ample to hold without any difficulty?

A. Yes.

Q. And there was a coral bend in a sandy bottom?

A. Yes.

Q. Made a good anchoring bottom, did it not?

A. Yes.

(Testimony of Frederick C. Miller.)

Q. Now, Captain Miller, did you have those anchors out at the time that you were loading cargo there? A. No.

A. You could not, at that time? A. No.

Q. Why not?

A. I told you that we broke the windlass on the "Concord," I told you we busted that.

Mr. WEAVER.—Q. When?

A. That I didn't tell you.

Judge WEAVER.—Q. I'm asking you when you broke the windlass of the "Concord."

A. When we lay alongside the "Celtic Chief."

Q. The windlass was in working condition when you were alongside?

A. When we went out alongside the "Celtic Chief," the windlass was in working condition and her anchors.

Q. How often did you go alongside the "Celtic Chief" with the "Concord"? A. Once only.
[1816—983]

Q. So when you came alongside the "Celtic Chief" you could have laid anchors from the "Concord"?

A. We could have anchored alongside there.

Q. You could have anchored with the "Makee" also when you were alongside with her?

A. Oh, yes.

Q. And you could have transferred anchors from the "Makee" to the "Kaimiloa"?

A. I could have done that, but she has no windlass.

Q. You could have dropped those anchors with the appliances on the "James Makee" and run a line aboard? A. We might have done that.

(Testimony of Frederick C. Miller.)

Q. You had ample lines for that purpose?

A. We had ample wires aboard the "James Mackee."

Q. Now, then, Captain Miller, if you had laid your anchors in that fashion, wouldn't that have prevented the danger and risk that you said there was?

A. Sure it would, but we couldn't have got the cargo out.

Q. Why couldn't you?

A. When you lay outside you can't anchor to a ship and get cargo off from her.

Q. She could have been anchored alongside of the "Celtic Chief," couldn't she, and could have had anchors out from this vessel?

A. We could have done it.

Q. Yes, and that would have prevented you from going ashore if you had anchors out? A. Yes.

Q. But you didn't regard that as expedient in order to do, in order to save your vessels from this risk?

A. I wouldn't do it. I wouldn't take the risk to them vessels. Had we anchored them alongside they would have nothing at all; they wouldn't have got their anchor out.

Q. You had a windlass.

A. The windlass broke on one of them, the other has no windlass.

Q. You could have let go?

A. Yes, we could, and she would have been on the reef.

Q. It would have helped you if you had anchors out ahead or astern?

(Testimony of Frederick C. Miller.)

A. But we couldn't have got [1817—984] the cargo out.

Q. Why not?

A. Because it was necessary for us to lay right alongside the "Celtic Chief" with a small space between the "Celtic Chief" and our boats.

Q. Can't you lay your anchors out ahead or astern?

A. Yes.

Q. What difference does it make—what difference whether you lay anchors or not. Didn't occur to you to do it? A. Did occur to us to do it.

Q. Powerful swell running on Monday?

A. There was a big swell.

Q. And it was exceedingly dangerous?

A. If we hadn't had any lines.

Q. But you could have laid your anchors?

A. If we started to lay our anchors out we wouldn't get our anchors.

Q. Why not?

A. You can't ——— a ship in a swell like that in five minutes.

Q. How long would it take you? A. Depends.

Q. How long would it take you to lay those anchors?

A. I might *may* take two hours, might have taken six.

Q. Might have taken six hours? A. Yes.

Q. Why?

A. It took us that *same* in the "Makee" all day to get the big anchor up.

Q. How large is that anchor as compared with the anchors of the "James Makee"?

(Testimony of Frederick C. Miller.)

Mr. MAGOON.—Hasn't he given the size of that answer?

Q. Answer the question, please. What is the weight of that big anchor, that is, that one anchor of the "James Makee"?

A. There's hardly any comparison.

Q. And there wouldn't be any comparison in the amount of time required or it would be necessary to lay that anchor of [1818—985] the "James Makee," would there? A. No.

Q. You anchored the "Makee" Tuesday night, didn't you? A. Yes.

Q. What with?

Mr. MAGOON.—I object to it.

A. If I remember right, it was with the big anchor. I don't know. My impression is we dropped both the ships' anchor. I know we dropped the big one and I think we dropped the ship's anchor. We had to let go on the "Makee" with the big anchor for the "Celtic Chief," and that's the reason I thought we dropped the second one.

Q. How long did it take you, if you did drop the anchor of the "James Makee," to drop the anchor that night?

A. That night it was perfectly clear; we had nothing in our way. We dropped it in about five minutes. You must understand, we were not mooring alongside of any ship; we was mooring out clear with plenty of sea.

Q. You had a good deal of labor on board these vessels? A. Yes.

Q. A great many men. A. A great many men.

(Testimony of Frederick C. Miller.)

Q. At the time that your vessels were alongside of the "Celtic Chief," other vessels were towing on the "Celtic Chief" at the same time, were they not?

A. Yes.

Q. If the "Celtic Chief" had gone afloat, had come afloat, these boats were powerful enough to tow her off? A. No, because they couldn't keep her there,

Q. If she were afloat?

A. If the "Celtic Chief" were afloat?

Q. If she had become buoyant at any time, were those towing steamers, would they, could they, have taken her out to deep water?

A. If she had become buoyant they would have taken her out to deep water.

Q. And it was because she was hard aground that they couldn't hold her; is that right?

A. Yes. [1819—986]

Q. The breakers were large? A. Yes.

Q. All day Monday and Tuesday?

A. All day Monday and Tuesday. The breakers was not so very, very still.

Q. Why did you add to the danger of the "Celtic Chief" by lashing your boats alongside?

A. Why did I?

Q. Why did you add to the danger?

A. The salvage operations up to the time we laid our anchor was contrary to my own good judgment.

Q. I'm asking you why did the lashing of your boats to the "Celtic Chief" add to her danger? I'm asking you the reason why there was any danger, any additional danger to the "Celtic Chief" from the fact that the boats were lashed alongside of here?

(Testimony of Frederick C. Miller.)

A. That there was danger to the "Celtic Chief"?

Q. What was the additional danger?

A. I don't remember testifying to it before, but I'll tell you here now. Every swell would come in would not only lift the "Celtic Chief" in shore, but the more boats you tied to the "Celtic Chief"—I'm telling you this, use it if you like to my prejudice—the more you enhance her going in because it presents that much more of a side to the swell of the ocean.

Q. The fact of the parting of the lines is proof of that? A. Correct.

Q. If you had had these anchors out that you say you could not have laid from your own vessel, that would not only overcome that tendency, but it would also have helped to keep the "Celtic Chief" from going broadside? A. Quite right you are.

Q. And yet you did not lay those anchors?

A. I did not; no. It is proper to ask me why.

Q. Let us have the reason why. [1820—987]

A. The orders from the time that I first went out to the "Celtic Chief" until the time that I left her, we were under Captain Henry's orders directly, and I did what he told us to do, even after I had advised him not to do it. It was his orders to bring those lighters there and put them alongside the ship. It was his orders to get as much of the cargo as we can and all the men possible, and get the cargo out, and I told him that I thought it was wrong; if you want to lose your ship, that *was to* do it.

Q. You told him that originally on Monday morning? A. I told him that Monday morning.

Q. When you came out?

(Testimony of Frederick C. Miller.)

A. Not when I first got on board the ship, but before I went out.

Recess.

Q. Did you, Captain Miller, at the time that you told Captain Henry that the way to lose his ship was to lighten her in the way that he wanted it done—I mean the lightening. The “Intrepid” and the “Huki Huki” both had lines on the “Celtic Chief” at the time? A. Yes.

Q. Why did you tell him, then, that you did not approve of the idea of discharging cargo when the “Intrepid” and the “Huki Huki” both had lines on board the “Celtic Chief” and were endeavoring not only to tow her but to hold her?

A. Because I was endeavoring to give him the benefit of my best judgment and best experience.

Q. And that was what?

A. And that was that before ever a ship is lightened of its cargo something stable should be fastened to her seaward, to hold her from going further on the beach.

Q. Weren't the “Intrepid” and the “Huki Huki” towing as they did upon the “Celtic Chief” for that purpose? A. They did not.

Q. Yes. Why?

A. Because every surge that [1821—988] went towards the beach took with them the “Huki Huki” and the “Intrepid” likewise.

Q. So that you did not regard the “Intrepid” and the “Huki Huki” as sufficient to prevent the “Celtic Chief” going further aground? A. I didn't.

Q. You told the captain that?

(Testimony of Frederick C. Miller.)

A. I said, "What's going to hold you?" He said, "There's the 'Intrepid' and there's the 'Huki Huki.'" And I said, "Pulling for nothing."

Q. And that was your judgment at the time?

A. Yes.

Q. And still is your judgment?

A. And still is now.

Q. There was no question about that in your mind at that time? A. Absolutely none then.

Q. Now, then, as I understand it, in your opinion the lightering of cargo from the "Celtic Chief" on Monday, instead of aiding, assisting, or salving the "Celtic Chief," had exactly the opposite tendency?

A. Exactly.

Q. It had the tendency to put her farther ashore?

A. It did.

Q. And injure her more?

A. It did.

Q. All the lightering that was done then, up to the time, up to the Wednesday noon, at least, had that tendency, a tendency to injure the "Celtic Chief" further and was detrimental to her?

A. Up to Tuesday morning or up to the time the "Intrepid" was reinforced by the "Inter-Island boats it certainly had, because the "Intrepid" nor the "Huki Huki," never could have held that ship from going on the beach, but when the Inter-Island boats came, and if I remember right, they came Monday afternoon; they kept her from going on the beach. [1822—989]

Q. Didn't you say she went further ashore from Monday night to Tuesday morning?

(Testimony of Frederick C. Miller.)

A. A little more.

Q. So that the Inter-Island boats did not prevent her from going farther inshore?

A. They surely could have stopped her more than what the "Intrepid" and "Huki Huki" could.

Q. Exerting more power they would stand a better chance? A. That's it exactly.

Q. But even so, you didn't regard them as sufficient for the purpose, did you? You still regarded an anchor was a stable object, first necessary, and that lightering under any other conditions would be detrimental? A. I do.

Q. And you did at that time?

A. And I did at that time.

Q. You did no lightering, did you, on Tuesday, of cargo from the "Celtic Chief" from the time that you got your anchor line aboard the "Celtic Chief" until after you got your anchor attached?

A. No, sir.

Q. All your lightering was done before that time?

A. Yes.

Q. You've been in the salvage business for a good many years? A. Off and on; yes.

Q. You've had how long?

A. I had probably outside of my experience in the Hawaiian Islands, about seven years' experience in salvage work.

Q. And where was that experience?

A. On the Atlantic Coast, in the *Bohemias* and on the coast of Cuba.

Q. Does that mean that you had a good deal of actual experience during that time?

(Testimony of Frederick C. Miller.)

A. Actual salvage work.

Q. That concerned one company? A. No.

Q. What was the company?

A. I worked for myself and worked for the American Salvage Company, New York. [1823—990]

Q. How long were you in salvage business on your own account on the Atlantic?

A. About five years.

Q. And you had a good deal of business during that time?

A. I've had a good many ships to work on.

Q. You're quite familiar with salvage work and salvage duties and customs and that sort of thing?

A. I am.

Q. And you've had some experience in Hawaii?

A. I've had some little here.

Q. You used the expression, Captain Miller, that you told Captain Henry that it was suicidal to lighten here under the conditions without having an anchor out?

A. Yes.

Q. Did you tell him that on Monday morning, also?

A. I don't remember that I used that word "Monday morning," but we had some words when we left the boats, and he said he wanted to get the cargo out as soon as possible, and I said, "What are you talking about? It is suicidal for you to lighten her this way."

Q. But you had conversation of that character both Monday morning and also later on when you went back ashore on Tuesday?

A. Yes; I told him Monday morning that the only

(Testimony of Frederick C. Miller.)

way to take that ship off was to get an anchor down first and hold her and then lighten her.

Q. Just what time was it that you first went down in the cabin, Captain, on Wednesday night?

A. As near as I can remember, it was somewhere about eight or nine o'clock.

Q. Eight or nine o'clock?

A. Yes, somewhere about that time.

Q. And it was somewhat prior to that time, wasn't it, that you took this observation according to the range lights and observed that the "Celtic Chief" had come three or four feet as you now judge it?

A. I think not. I'm not quite positive. We was continually taking the bearings of that ship to see what she was doing, but I'm not quite positive [1824—991] whether she had started before we went down in the cabin to take the lunch, whether it was before we had the lunch or during the lunch time that I came out on deck and noticed it.

Q. What is your best judgment as to the first time that you observed that she was coming somewhat?

A. She didn't come very much.

Q. I know, but you observed she had come three or four feet, I believe?

A. Yes, my best judgment, my best judgment, Mr. Olson, is that we went down to partake of that lunch but before she had started. That's my best judgment.

Q. Before what? A. Before she had started.

Q. Before she had started to come?

A. Yes, I think that lunch came aboard the ship and the captain asked me down before she come.

(Testimony of Frederick C. Miller.)

That's my best judgment.

Q. Now, I'll ask you do you know the time, what time of day or the night was it, according to your best judgment?

A. The best of my judgment is about somewhere between nine and ten o'clock.

Q. Somewhere between nine and ten o'clock?

A. Yes, I think.

Q. Do you remember what time of night it was that the "Celtic Chief" came off?

A. Yes, about—

Q. Can you state what time it was?

A. Shortly after eleven o'clock.

Q. Isn't it a fact that she came off at twelve-twenty?

A. No, sir; at ten minutes past twelve that ship was safe; the "Arcona" was towing her.

Q. And she must have been at least two miles from the shore at ten minutes after twelve?

A. At ten minutes past twelve.

Q. Did you look at your watch when she came off?

A. Captain Macaulay looked at his and I looked at mine.

Q. What time according to your time?

A. When she came off?

Q. When she came off.

A. I'm saying a little after eleven o'clock, but I remember that ten minutes past twelve perfectly well. [1825—992]

Q. You are positive that she came off at least before ten minutes after twelve?

A. I am positive of that fact.

(Testimony of Frederick C. Miller.)

Q. When you say shortly after eleven, do you mean to say that it was as much as an hour before ten minutes after twelve? A. That she came off?

Q. Yes.

A. To the best of my judgment, Mr. Olson, that ship came off somewhere between eleven and eleven-thirty. At ten minutes past twelve, the Miller Salvage Co. didn't have a line fast to her. The Inter-Island boats was all cut loose from her and the "Arcona" was towing her with Diamond Headlight on the port side and she was at least two miles from the shore where she had been stranded.

Q. How long would it take to sail two miles or go two miles?

A. Towing that ship to go two miles the "Arcona" didn't tow that ship over six minutes. It would take at least twenty minutes to go two miles.

Q. Then wasn't it, as a matter of fact, about twenty minutes before ten minutes after twelve that she came off?

A. Excuse me, I've got to get the lines.

Q. Captain Miller, one of your witnesses said the other day that the lines of these various vessels and your own lines were let go very soon after the "Celtic Chief" came off the reef. Do you mean to tell me that is so? A. Yes, if my witness testified.

Q. Isn't it the fact that your own tackle, your own line, was loose and thrown overboard off the "Celtic Chief" within a moment?

A. No, sir, and I don't care if my own witnesses say. It is not possible to do it.

Q. How long did it take?

(Testimony of Frederick C. Miller.)

A. To guess at it, our lines, Mr. Olson, must have taken—I'm telling you the best of my knowledge—it couldn't have been more than five or ten minutes.

[1826—993]

Q. It might be five minutes?

A. It might possibly be five.

Q. Your line was hanging loose over the side?

A. Yes.

Q. All that was necessary was to unshackle it?

A. No, sir. The "Celtic Chief" had a big chock and our hawser was coming through there, and there was a big shackle on it, and when the shackle come on to that chock we couldn't get it through and we had a good deal of trouble.

Q. You were working pretty rapidly?

A. You bet your life.

Q. Isn't it possible that it didn't take more than five minutes?

A. Such is possible, but when I said five or ten, I told you the best of my judgment.

Q. Isn't it true also that the Inter-Island—

A. They cut loose as soon as they could.

Q. I'm asking you if they did it within the same period.

A. I don't know just when they cut their lines. I should say pretty near the same time.

Q. Then, if it took twenty minutes for the "Arcona" to get the "Celtic Chief" out to the place where she was when you say it was ten minutes after twelve, and it cannot have taken more than five minutes to get these lines loose, then, Captain Miller, isn't it possible, as far as your own knowledge is

(Testimony of Frederick C. Miller.)

concerned, that she didn't come off about ten minutes to twelve? A. No, it is not.

Q. About fifteen minutes to twelve?

A. I don't think that.

Q. Isn't possible for you to remember what you testified? A. I'm telling you what I know.

Q. If it only took twenty minutes to take the "Celtic Chief" out to the place where you say she was until ten minutes after twelve and it only took five or ten minutes to let go the lines, isn't it quite possible that she came off about [1827—994] eleven forty-five?

A. Yes, if it only took twenty minutes and if it only took five minutes to cut my lines, then it was eleven forty-five.

Q. And it's possible that it was about that time, as far as your knowledge is concerned?

A. As far as my knowledge is concerned it is nearer eleven than twelve.

Q. I'm not asking you what it was according to your knowledge except in regard to what you just testified. Isn't it quite possible, as far as your knowledge is concerned, that she didn't get off until fifteen or twenty minutes to twelve?

A. As far as my knowledge is concerned?

Q. I'm asking you if that isn't quite possible, as far as your knowledge is concerned?

A. If those two figures are right, admitting those two figures to be right, then it was possible that it was eleven forty-five.

Q. And you have already said, I believe, Captain Miller, that these two things may have been accom-

(Testimony of Frederick C. Miller.)

plished within that period of time, the towing of the "Celtic Chief" out to the place where she was at ten minutes after twelve and unloosening the various lines to the "Celtic Chief"?

A. I think it possible. It could have been.

Q. I'm asking if it isn't possible that it was done?

A. It's possible.

Q. Now, then, coming back then to this first seaward change of position on the part of the "Celtic Chief" that you observed, was that nearer to nine o'clock than it was to ten o'clock?

A. Nearer to nine than to ten.

Q. I'll ask you, nearer eight o'clock than nine o'clock? A. No, I don't think so.

Q. How long did you stay down in the cabin before you came up and made this observation?

A. I think I was in that cabin altogether, including the [1828—995] times that we came in and out.

Q. The point—I'm asking how long it was that you first came into the cabin, which you say was about half-past eight, until you came out on deck and made the observation in order to see—after half-past eight I mean the time you went down into the cabin—how long was it from that time until you up and made that observation on the deck?

A. I don't know that I can recall just when we first noticed that she was coming. I think as a matter of fact, one of our men first called my attention to it and that she was moving and that we was getting some on the lines, that we was coming slowly

(Testimony of Frederick C. Miller.)

off and also he showed me the bearings and the channel lights.

Q. What time do you think that was?

A. I think that was somewhere—I should say nine o'clock. Probably, maybe little after.

Q. Might have been a little before?

A. I don't think it was before.

Q. It would be about nine o'clock according to your best judgment.

A. Say about nine o'clock. I'm not positive about those times.

Q. Now, you satisfied yourself that the "Celtic Chief" had come seaward several feet at that time, did you?

A. Well, I satisfied myself she'd moved three or four feet.

Q. At that time? A. At that time.

Q. Did you go back and inform Captain Henry and Captain Macaulay and Captain Haglund about that? A. Captain Haglund was not there.

Q. Did you inform Captain Henry and Captain Macaulay? A. No, I did not.

Q. You didn't intend to?

A. No, I didn't intend to.

Q. You didn't want them to know anything about it? [1829—996] A. I did not.

Q. And you went back down there and regaled yourself with lunch? A. I did.

Q. And told stories back and forth? A. Yes.

Q. In other words, it was your purpose to keep them in the dark about it?

A. I didn't tell them that ship was coming off.

(Testimony of Frederick C. Miller.)

Q. You were trying to keep that from knowing?

A. I wasn't holding them.

Q. I am merely referring to the question to which you answered you did not tell them that the ship was coming off.

A. If I stated that—I had no power to keep them quiet. I wouldn't have told them, however.

Q. Preferred not to have them know?

A. I preferred not to have them know, because I told our men two or three times to shut up their noise.

Q. Did you make that the first time?

A. The first time I didn't tell the men at all of the fact that she was moving. Before the first bump those kanakas knew as well as I knew it.

Q. Now, didn't Dick Clarke come over to the cabin and call you out?

A. He came out to the cabin door and called me once.

Q. Wasn't it just after that first bump that he came aft with ————?

A. Possibly, it may have been.

Q. And he told you that she was coming?

A. Dick called me and told me she was coming.

Q. Mustn't it have been the time of the first bump? A. It may have been.

Q. Might it have been that first bump?

A. No, no. I'll tell you why. The first time she started I think it was the strap of the ropes or hawsers. [1830—997] When they said that they had got three or four feet, I said to the man, I forget now whether it was Weisbarth or Tom Mayson, he said,

(Testimony of Frederick C. Miller.)

“Captain, there’s your range lights.”

Q. Tom Mayson told you that?

A. I wouldn’t say it was Weisbarth or Tom Mayson.

Q. Tom Mayson was there?

A. Tom Mayson, Dick Clarke, Weisbarth.

Q. And you all four noted this change?

A. It was one of them that called my attention.

Q. Then you all took a look?

A. I don’t remember whether the rest of the men took a look.

Q. But Mayson was there?

A. Mayson was there and knew it and he could not mistake it. He came up on the poop deck and then he spoke to me.

Q. Now, how long was it between that first movement that you observed at about nine o’clock?

A. It was quite a little time and I can’t say just how long.

Q. About an hour, couple of hours?

A. I don’t know. Oh, no, I don’t think two hours. It might have been an hour or might have been later. It might have been a little over, I can’t say.

Q. You think it was a little over an hour, any way don’t you? A. I think it’s possible it was.

Q. I’m asking you what you think it was?

A. I’m only hazarding a guess.

Q. I’m trying to get from you your best recollection.

A. I would say it was over an hour because from that first movement, the first coming in inch by inch on that purchase until we felt the bump, I guess I

(Testimony of Frederick C. Miller.)

was in that cabin an hour.

Q. Now, can you tell me how long it had been since you were out on deck until the time that Clarke, or until the [1831—998] time that you first felt the first bump, just before that bump? I want to find out how long before it had been since you had been on deck.

A. You want to know the interval from the time from that first bump to the time I had been on deck previously?

Q. Yes.

A. I couldn't give you that because I was coming and going out on deck.

Q. Still, at the same time that bump is pretty clear in your mind?

A. Oh, I remember that now.

Q. You had been down in the cabin for some little time with Captain Henry and Captain Macaulay?

A. Yes.

Q. Probably ten or fifteen minutes?

A. Yes, possibly.

Q. After having been up on the deck, on the main deck? A. I think so.

Q. And then you felt this bump and Captain Macaulay made the remark—no, it was Captain Henry made the remark—

A. No, Captain Henry. Captain Macaulay was telling the story.

Q. And Captain Henry made the remark that the ship must be coming off?

A. He said, "The ship's coming off."

Q. What did Captain Macaulay say?

(Testimony of Frederick C. Miller.)

A. He said, "Sit down! Why, how can it come off? They're not towing." Captain Henry said, "This man's got his anchor out." Captain Macaulay said, "Oh, sit down! Let me finish my story; she isn't coming off."

Q. Did you say anything at all?

A. I think I said to him then—he had said before, if Haglund had had any sense he would have sent him a bottle of beer to eat with that lunch. Captain Hagland had sent over a dish of sandwiches and pies. I said to him, "If you wait ten or fifteen minutes I'll put you [1832—999] alongside the 'Arcona' and get some beer from them," and Macaulay thought that was a good joke.

Q. Henry thought it was a good joke?

A. No, Henry was uneasy—he was rather uneasy because he jumped out of his chair quick.

Q. Did you agree with Captain Macaulay or did you agree with Captain Henry?

A. Oh, I agreed with Macaulay.

Q. What did you do that for?

A. Well, I didn't want them to know that she was coming off.

Q. So you were sure that she was coming off?

A. I didn't tell Henry that the ship was coming off. I said, "I'll put you alongside that German cruiser in twenty minutes."

Q. In other words, you turned it into a sort of joke in telling them what you thought was the truth? A. Exactly.

Q. In a jocular way? A. Sure, I did.

Q. You did intend that they shouldn't know.

(Testimony of Frederick C. Miller.)

A. As far as I could.

Q. As far as you could, you gave that impression, you wanted to create that impression? A. I did.

Q. Do you know where the German cruiser officers were at that time?

A. I never saw the German cruiser's officers from the time they left that ship along about dusk, we'll say, as near as I can remember, until I saw them when we all three walked out of that cabin after that last bump. And when we came out of the cabin the German cruiser's officers and Captain Haglund stood on the upper deck. I think Captain Haglund was there and some of the German officers. In the various times I had come out I had never seen them.

Q. How long a time do you think elapsed from the [1833—1000] first bump, from this gradual coming, how far between that bump and the second bump?

A. That I can't tell you. It may have been twenty minutes and it may have been an hour.

Q. Might have been an hour?

A. It might have been, I should say. I'm giving you the best of my knowledge.

Q. I think you testified, Captain Miller, on direct, that you had been down in the cabin before coming out on deck, about twenty minutes immediately prior to your coming out the last time when she came off the reef?

A. I think that I was there. I haven't read over what I testified. I'm telling you that I think—I'm telling you now that immediately prior to the last bump I think that I was in that cabin at least fifteen

(Testimony of Frederick C. Miller.)

or twenty minutes.

Q. Might have been half an hour?

A. Well, it may have been.

Q. Well, then, isn't it the fact, Captain Miller, that you were only out on deck once between the two bumps—that is, between the time you went out and told the men to shut up?

A. The best of my recollection is that between the two bumps I only recollect of going out on deck once.

Q. And that was the time you went out and told the men to shut up?

A. Yes, I told them to shut up then, but I may have told them before the first bump.

Q. What were you doing down there in that cabin during that period of time, that is, between the first and second bumps after you had come back into the cabin again? What were you doing at the time?

A. Telling stories and exchanging experiences.

Q. Didn't you feel pretty sure that there would probably be another movement of the "Celtic Chief" in a short time?

A. I did. I expected to feel our side, our stern, bump right into the German cruiser. [1834—1001]

Q. At any time? A. That's what I did.

Q. Why weren't you out on the deck?

A. I didn't want to see it. I wanted to feel it.

Q. I want to know why it was that you stayed down there in the cabin?

A. Because it suited me to do it.

Q. That was a pretty critical moment of the salvage of the "Celtic Chief"? A. Sure it was.

Q. Still you deliberately stayed down in the cabin,

(Testimony of Frederick C. Miller.)

feeling that that ship was going to come off at any time? A. I did.

Q. What was your reason?

A. I didn't want them fellows on deck setting up any signal rockets.

Q. And you stayed down there in order to keep them from sending up the signals?

A. I don't know that my presence with them kept them, but it—

Q. That was your intention, at any rate?

A. That was my intention.

Q. Why didn't you want them—

A. For this reason, if those rockets and signals had gone up the German cruiser would have started pulling right away and she would then claim the credit for pulling that ship off.

Q. She now claims it?

A. She can claim all she wants to. I know.

Q. It's the fact, is it, Captain Miller, when that second bump occurred and Captain Henry and Captain Macaulay and you were down in the cabin, the first thing Captain Macaulay did was to go out on deck?

A. No; the first thing he did, he said, "Why, Miller, your anchor's dragged." I said, "No; look at your range lights." And as soon as he saw the range lights he gave the order to put up the green light.

Q. According to your observation, as soon as Captain Macaulay realized that the "Celtic Chief" was beginning to come [1835—1002] off, the first thing he did then was to order the signal given?

(Testimony of Frederick C. Miller.)

A. That's right.

Q. Even though it may have taken some little time to come to that realization, the first thing that he did was to see that the signals were given?

A. That's right.

Q. And you think that that's what he would have done after the first bump?

A. He would have done that if he thought that ship was coming off.

Q. And that's what you wanted to prevent?

A. That's what I wanted to prevent.

Q. And did whatever you could to prevent it?

A. We did nothing to prevent; that's up to them.

Q. You told your men to keep quiet? A. I did.

Q. And you kept quiet?

A. I kept quiet as far as telling them the ship was coming off.

Q. And kept telling them stories.

A. They could tell a better story than I could.

Q. You proved a good listener to their stories?

A. Indeed, I did.

Q. You observed, did you not, between this inch by inch movement that you observed about nine o'clock, and the first bump, upon several occasions when you went out on the deck from the cabin, that the various steamers that had lines attached to the "Celtic Chief" were doing nothing and had their lines slack in the water?

A. I observed this, Mr. Olson: the lines from the cruiser was slack and in the water, and as far as my observation goes, at not one of those times or any other time up to the time these signals went up that

(Testimony of Frederick C. Miller.)

German cruiser wasn't pulling.

Q. Now, what about the Inter-Island boats?

A. The Inter-Island boats, I don't know what they were doing aboard the boats, but my observation of their lines [1836—1003] was that they were not as taut as they had been when I had observed them pulling at full speed.

Q. Now, you said they were pulling at slow speed as far as you could judge.

A. As far as I could judge. I would tell you now that they were just turning over their propellers just enough to get a strain.

Q. At slow speed? A. At slow speed.

Q. Did you observe that their lines would come out of the water at times with a great jump?

A. I did. I'll tell you what that was. There is a swell running there and sometimes between the swell, between the crests of two swells you will see the lines out of the water.

Q. And that's all there was? A. That's all.

Q. It didn't indicate any strong pull on the part of the vessels?

A. To the best of my observation, there was no strong pull from any of those ships on the "Celtic Chief" up to the time of that last bump and I came out of the cabin.

Q. They were not exercising, certainly, as much power as they could exercise?

A. They certainly did not exercise as much as they had when I observed previously.

Q. And that's also true of the "Arcona"?

A. It was not the case with the "Arcona" because,

(Testimony of Frederick C. Miller.)

the "Arcona's" propeller was already stopped.

Q. You think that's the way she did her pulling?

A. I don't think she did any pulling.

Q. On Wednesday afternoon? A. Yes.

Q. She did her pulling by means of her propeller?

A. That Wednesday afternoon. She was using her propeller before, sure.

Q. You don't know that she had a large anchor out ahead and was heaving in on her anchor-chain and that was what [1837—1004] she was pulling by?

A. I'm not prepared to say, but I don't believe she was heaving in on her line that night and I know she didn't go because we was shortening up our distance to one foot.

Q. If she was pulling by means of her anchor—

A. No, sir; we shortened up our distance less than one foot between the distance that she was between these ships. And if she had been pulling either by her propeller or by her anchor we couldn't shorten the distance.

Q. Your anchor didn't move, did it?

A. No, it didn't.

Q. Why not?

A. Because it was fastened in the bottom.

Q. How did you expect the "Arcona's" anchor—

A. Because the ship was going to the anchor. The "Arcona" was going towards her anchor and then the "Celtic Chief" would naturally follow.

Q. Why would it?

A. Why, because her, because the two lines to the "Arcona," to the "Celtic Chief," were aboard the "Celtic Chief."

(Testimony of Frederick C. Miller.)

Q. That, Captain Miller, is not an answer to my question. I'm asking you the reason that the "Celtic Chief," that the "Arcona" would have gone out eastward if she—

A. Sure, she would have gone eastward because the anchor, you'll understand, her anchor must have been placed eastward of her bow.

Q. Yes.

A. All right; now, if she's heaving in on that anchor she is heaving up to that anchor and anything that is fast to her stern would naturally, keep that certain distance.

Q. Captain Miller, that is an attempt at an answer and I am now going to ask you another question. If the "Celtic Chief" was being pulled by the "Arcona" by heaving in on her anchor-chain, would it be true just prior to the second time [1838—1005] that the "Celtic Chief" began to come that there would be an equal strain on the lines between the "Celtic Chief" and the "Arcona" as there was on the anchor-chain?

A. Mr. Olson, I don't know what strain was on the "Arcona's" anchor-chain.

Q. I'm not asking you about that.

A. I only know about distance between the two ships and I do not know that she would not be. I do know that the "Arcona's" lines connected to the "Celtic Chief" were slack.

Q. I'm asking you this question and you haven't yet answered it. Isn't it true that if the "Arcona"—I'm going to ask you a hypothetical question. If the "Arcona" did have a strain on her an-

(Testimony of Frederick C. Miller.)

chor-chain, isn't it true that prior to the second time that the "Celtic Chief" actually began to come off there would be less strain on the lines between the "Arcona" and the "Celtic Chief," if there was a strain on the anchor-chain? Isn't that true as a scientific fact? A. Necessarily, yes.

Q. Doesn't it follow that if the "Celtic Chief" then came off the "Arcona" would be pulling from the fact—

A. No, if the "Arcona" was heaving in on her anchor-chain, the same strain that might have been previously or before, in the first place. There wasn't anywhere a strain on them.

Q. And you are willing to swear that she did not have her lines taut?

A. Mr. Olson, I'm prepared to swear now until next year that the lines connecting the "Celtic Chief" to the "Arcona" was not, at any time during that night, I'm not speaking of that afternoon,—at any time during that night, above the water.

Q. You are willing to swear to that?

A. I'm willing.

Q. You were there that night?

A. I know they were not at the time I looked at them. [1839—1006]

Q. Then you don't know whether or not the "Arcona" was pulling with all her might from about twenty minutes prior till she came off?

A. I don't know. I don't believe so because I would have heard her windlass.

Q. You could have heard her windlass down in the captain's cabin.

(Testimony of Frederick C. Miller.)

A. I could have heard it every time I go on deck.

Q. Were you out on deck twenty minutes before the last jump? A. I don't think so.

Q. Do you know what the condition of the "Arcona" was during those twenty minutes?

A. I don't.

Q. You are not prepared to swear that the "Arcona" was not pulling that last time?

A. I'm not prepared to swear.

Q. You said a few moments ago that you thought and could swear that she was not pulling.

A. I said I don't believe she was.

Q. But you don't know?

A. I don't know for that twenty minutes; no.

Q. During these seven years of experience that you had on the Atlantic in salvage, when you say that you had a great deal of experience in salving vessels, and during the time that you have had salving experience in the Hawaiian waters, did it never come to your notice, Captain Miller, that the first duty of a salvor when a vessel is in distress and that salvor is attempting to give aid to the vessel, that the first duty of the salvor is to do everything for the distressed vessel, regardless of self-interest?

A. No, I did not.

Q. You don't regard that as an established rule?

A. No, because a salvor is under the orders of the captain and has got to carry out his orders.

Q. That's the principle upon which you acted in these "Celtic Chief" operations? A. I said—

Q. Is that right? [1840—1007]

A. Yes, that is right. The captain of the ship is

(Testimony of Frederick C. Miller.)

in charge of the ship and the salvor and everybody on board of her.

Q. Where did the conversation take place between the German cruiser officer, Captain Henry, Pilot Macaulay, and possibly, also Captain Haglund, when certain signals were agreed upon between them? A. On the poop deck.

Q. Were you among them?

A. I was as close to them as I am to his Honor, Judge Clemons, about six or seven feet away.

Q. About five or six feet away?

A. I should say five or six feet.

Q. You were in the same group practically, were you? A. I was in practically the same group.

Q. So that you believe still that certain signals were agreed upon between these various men having charge of certain parts of the salvage operations there? A. Yes.

Q. Which would indicate to these various vessels when they were to begin to exert themselves?

A. Yes.

Mr. WARREN.—I don't think that's the testimony, your Honor.

Mr. OLSON.—I have no objection to that. You don't know anything about the signals for the Inter-Island boats?

A. I didn't hear any of that arrangement because I don't remember being present at any conversation when any arrangement was made between Captain Haglund and the captain of the cruiser, but I do remember distinctly the question of these signals and this horse pistol affair between the German officers

(Testimony of Frederick C. Miller.)

and the captain of the ship coming in. I remember because Macaulay had to send to get the morning's paper to see when it was approximately high tide.

Q. Your impression was that Captain Haglund was there.

A. My impression was that Captain Haglund was there, but I'm [1841—1008] not certain.

Q. Who else was there besides Captain Haglund, possibly, Captain Macaulay, Captain Henry, and yourself?

A. I think the first officer of the ship was stationed there also.

Q. Anybody else?

A. There may have been; I don't remember.

Q. You don't know?

A. I wouldn't state yes or no.

Q. The German officer was there?

A. A man that I took to be the commanding officer was there and he had another man with him.

Q. About what time was that?

A. I would say that that was, it was before dark.

Q. Just before dusk?

A. I should say just about dusk, a little before.

Q. It being in December, what, if you know, then, was the time?

A. I would say about six o'clock. That's the best of my remembrance.

Q. What did the German officer then do, where did he go?

A. If I remember right, he returned to, both of those men returned to the "Arcona."

Q. As I understand you, then, Captain Miller,

(Testimony of Frederick C. Miller.)

from the time that you and Pilot Macaulay and Captain Henry were down in the captain's cabin, until the "Celtic Chief" came off the reef, practically speaking, the only activity on board of the "Celtic Chief" was that shown by the Miller Salvage Co. men? A. Entirely so.

Q. Nothing else doing around the deck?

A. The crew was turned in, the mate of the ship was turned in, lying down but wasn't asleep. He testified afterwards, he told me he wasn't asleep but he was in his room. And I think that the only one of the crew that I know, all that I [1842—1009] saw that was awake was the captain of the ship.

Q. And he was down in the cabin?

A. He was in his room.

Q. Where was Captain Haglund?

A. Captain Haglund left the ship, as near as I can remember, about dusk. I don't know where he went.

Q. And you didn't see him from that time on until she came off?

A. I don't remember whether Captain Haglund came down into the cabin while we were there or not. He may have poked his head in the cabin door once or twice.

Q. You didn't see him about the door?

A. I don't remember seeing him about the ship and I don't think that he came into the Captain's room, and he might have done so.

Q. As far as you remember, Captain Haglund wasn't around the deck?

A. As far as I remember, I don't remember seeing

(Testimony of Frederick C. Miller.)

Captain Haglund from the time he left about sun-down until I saw him after I came out after that second bump.

Q. Where was he when you came out after the second bump? A. He was standing aft.

Q. On the poop? A. On the poop deck.

Q. As far as you know there were no signals given by that vessel, these rocket signals at all, after that second bump.

A. As far as I know, none were given.

Q. Did it make a noise when they were shot off?

A. Not much of a noise, a sort of a pop.

Q. Wasn't there quite an amount of pop?

A. Not more so than to an ordinary skyrocket. It wasn't much a report.

Q. You would have heard that report if they had been given while you were down in the cabin even.

[1843—1010]

A. If it had been given, Mr. Olson, I might have heard it, but I am not, but I don't believe it was given.

Q. You are pretty sure that if it was, you would have heard? A. I think I would.

Q. You feel practically positive that they were not given?

A. I feel positive that they were not given.

Q. Just where did you drop your big anchor?

A. As near as—

Q. Just a moment. Where did you drop your big anchor outside, not when you came out there near the "Celtic Chief"?

Mr. WEAVER.—I object to that, if the Court

(Testimony of Frederick C. Miller.)

please, assuming a fact that is not proved.

The COURT.—Objection overruled.

A. I think we dropped that big anchor—

Q. You are sure of it, aren't you?

A. I'm quite positive, I'm not certain. I remember running the surf line in. I think we dropped the big anchor and then we dropped the little anchor of the boat also.

Q. Didn't you testify positively this morning or yesterday, Captain Miller, that the anchor was dropped by the "James Makee"?

A. I tell you now I think we dropped it.

Q. Don't you remember positively?

A. I know we anchored the "James Makee" on Tuesday night positively. The best of my recollection is we dropped both the anchors. We dropped our big anchor because I wished to pull over that port quarter of the "Celtic Chief."

Q. You did?

A. That's what I placed it there for.

Q. You testified on direct, at any rate, in the examination, in your testimony yesterday or to-day, yesterday, that it took you about three-quarters of an hour to get outside. "When we got to the 'Celtic Chief' we went to the, on to the port quarter and dropped the big anchor"? [1844—1011]

A. Yes.

Q. Is that correct? A. I think that's correct.

Q. You took careful observation and know of the various things that went on? A. I did.

Q. And you've testified very positively in regard to some things? A. Some things impressed me.

(Testimony of Frederick C. Miller.)

Q. And you were the person in charge of the anchor operations of the Miller Salvage Company?

A. I was in charge all the time.

Q. And yet you aren't positive now whether that big anchor was dropped on Tuesday night?

A. I think we dropped it.

Q. You've said that several times, but I'm not asking you what you think. I'm asking you whether you are positive.

A. No, I wouldn't swear to anything if there is a doubt in my mind about it. If I didn't drop it you can take it from me I intended to drop it there. I'm pretty positive that I dropped it. I think the best of my recollection is that we dropped the big anchor and then run the surf line, and I certainly would not run the surf line unless I intended to drop the anchor there.

Q. So you are practically certain you did drop it there that night? A. It may be so we did.

Q. You didn't express any doubt on that question when you testified on this before when I questioned you upon your testimony? You didn't express any doubt in your own mind?

A. No, I said I did. I'm stating everything to the best of my knowledge and belief and the best that I remember. I'm saying so now.

Q. That anchor was laid on the port quarter, you say? A. On the port quarter.

Q. Of the "Celtic Chief"?

A. Of the "Celtic Chief."

Q. Do you remember the relative positions of the

(Testimony of Frederick C. Miller.)

towing steamers at the time you came out there Tuesday night?

A. Perfectly well. [1845—1012]

Q. What vessels were in on the starboard quarter?

A. From the best of my remembrance, "Mikahala" was on the starboard quarter.

Q. The next vessel?

A. The next vessel was the tug "Intrepid."

Q. What direction was she pulling in respect to the "Celtic Chief"?

A. She was pulling almost directly astern.

Q. And then the next vessel?

A. I'm telling you from my remembrance and belief, the next was the "Helene."

Q. And the next vessel?

A. As near as I can remember the next was the "Likelike."

Q. Both of them on the port quarter?

A. The "Likelike" lay on the quarter and I think the "Helene" was possibly on the quarter.

Q. If the "Intrepid" was dead astern, then the "Helene" was to port of the "Intrepid"?

A. That's right.

Q. How much would you say on the port quarter of the "Helene" and the "Likelike"?

A. I should say that she was about say three points on her port quarter.

Q. And the "Helene" was between here and the "Intrepid"?

A. The "Helene" was between the "Likelike" and the "Intrepid."

(Testimony of Frederick C. Miller.)

Q. And you mean to say that the "Helene" was pulling between those two vessels with the "Intrepid" dead astern and the "Likelike" only three points to the port?

A. As near as I can remember.

Q. How much distance was there between those two vessels? A. Not very much.

Q. How much?

A. Between the "Intrepid" and the "Helene"?

Q. Between the "Intrepid" and the "Helene," first.

A. Between the "Intrepid" and the "Helene," I would say there was about one hundred feet, one hundred or one hundred and fifty. [1846—1013]

Q. And they were all pulling with lines approximately nine hundred feet long?

A. I don't think their lines were over five hundred feet.

Q. That's the "Intrepid," the "Helene," and the "Likelike"?

A. All of them about the same length and I would say about seven hundred.

Q. And it was about a hundred feet between the "Intrepid" and the "Helene"? A. About that.

Q. Now, about what distance between the "Helene" and the "Likelike"?

A. The "Helene" and the "Likelike," I would say about one hundred or one hundred and fifty foot, two hundred feet. Possibly two hundred feet.

Q. As much as a hundred yards between the "Intrepid" and the "Likelike"?

A. Yes, I'd say that.

(Testimony of Frederick C. Miller.)

Q. And that's your idea of being three points to the port quarter? A. Yes.

Q. Now, then, where, in respect to the "Likelike," did you drop your anchor Tuesday night, if you are able to tell?

A. To the "Likelike"? That would be more to the port. More to the port of her.

Q. You'd be still more to the port quarter?

A. Yes.

Q. How far?

A. I'm telling you the "Likelike."

Q. The last of the four.

A. The last of the lot.

Q. About how far from her?

A. Close to her, about a hundred feet.

Q. About a hundred feet from the "Likelike"?

A. About a hundred feet.

Q. And that's where you intended to drop your anchor that night? A. Yes.

Q. Did you have any difficulty in getting your anchor into position on Wednesday when you lifted that anchor? A. Yes.

Q. What was the difficulty?

A. The "Helene" and the [1847—1014] "Intrepid" were so close together that it was difficult for us to get in there and move around.

Q. But you did get in? A. We did.

Q. Where did you drop that anchor, ahead of the "Intrepid" or astern of the "Intrepid"?

A. Right abreast of her.

Q. Between the "Intrepid" and the—

A. The "Helene."

Q. The "Helene"? A. Yes.

(Testimony of Frederick C. Miller.)

Q. So that it required about seven hundred feet of line to attach the anchor to the "Celtic Chief"?

A. It would have taken if their lines were 700 feet.

Q. And yet you say that line was not long enough to get it completely aboard the "Celtic Chief."

A. I said that line didn't come within twenty or thirty feet of the "Celtic Chief."

Q. Why, then, did you say that line was about nine hundred or a thousand feet long?

A. Maybe I said it was 900.

Q. Why do you testify now that your anchor was 700 feet?

A. I'm telling you the best of my knowledge and belief, that those lines were about 700 feet, and when I told you that we dropped abreast of the "Intrepid" I meant to say about abreast. It might have been away from her.

Q. And there wouldn't have been so much difficulty in dropping the anchor then?

A. The difficulty would have been.

Q. Didn't the "Intrepid" have an anchor out?

A. I think not.

Q. Did the "Helene"?

A. I think she did. I don't know but my impression is she did.

Q. Do you wish to change your testimony on that point?

A. I don't wish to change anything that I told you.

Q. Then you still think that they were seven hundred feet from the "Celtic Chief"?

A. I'm telling you all these lines that the Inter-

(Testimony of Frederick C. Miller.)

Island was pulling at I don't think [1848—1015] was over 700 feet.

Q. Do you know the length of the "Intrepid"?

A. About ninety or a hundred feet.

Q. Now, then, if you had a 900-foot line from your anchor and that line wouldn't reach to the stern of the "Celtic Chief," falling about thirty feet short, wouldn't it necessarily mean that your anchor was over a hundred feet in front of the bow of the "Intrepid"? A. I don't say that it wasn't.

Q. What do you mean by saying it was abreast?

A. About abreast, I think. Just like that, her anchor is here, the "Intrepid" lying here. I think we may have dropped out anchor out here, way out. I won't say that it was abreast.

Q. It couldn't have been with the "Intrepid" out 700 feet? A. It couldn't have been.

Q. Then it was not abreast of her, was it? The anchor wasn't abreast of the "Intrepid"?

A. It might have been just abreast.

Q. Don't you know?

A. I don't remember just where we dropped it. I know we came in between those two ships, between the "Intrepid" and "Helene."

Q. Are you sure that you had an anchor laid out there at all? A. Oh, yes, I am positive of that.

Q. You don't merely think about that?

A. Oh, no, I don't think about that. When we dropped our anchor I didn't measure the distance.

Q. But you ordinarily know whether or not you're within a hundred feet of a vessel or within fifty feet; that is, on line a hundred feet with a ves-

(Testimony of Frederick C. Miller.)

sel which is not more than fifty feet to one side or the other of a line between you and the point you expect to pull on?

Mr. MAGOON.—I object to that because there's nothing in the evidence.

Mr. OLSON.—I'll withdraw the question and re-frame it. Wouldn't you naturally have observed whether or not you were within a [1849—1016] distance of over a hundred feet away from a towing steamer which lay approximately fifty feet from the line between you and the object on which you expected to pull, wouldn't you have observed whether or not you were a hundred feet or over ahead of her or abreast of her? A. No; let me make this clear.

Q. You wouldn't observe that?

A. I would not. What I was trying to say all the time, and that's the reason I'm not squarely on the point you are trying to draw from me—I knew I had about 900 feet of wire in a cable like I was trying to judge to drop that anchor so that the end of that wire would reach the "Celtic Chief's" stern. At the same time I was afraid that the boats might have a collision between the "Intrepid" and "Helene." Now, you can see that I've got to take my ship in between two ships where there isn't room for four ships and I've got to get my line, drop my anchor so that the end of my steel wire will come to her stern, and that's a pretty nice calculation to make.

Q. You were thirty or forty feet to seaward where you should have dropped that anchor?

A. I was somewhere about thirty feet from the mark where the vessel should have been.

(Testimony of Frederick C. Miller.)

Q. You were making this mark?

A. The trouble was I had two vessels; the "Mokolii" was towing the "James Makee" and that's what made it very difficult.

Q. The "Makee's" engines were not working?

A. The "Makee's" engines were not working.

Q. Why?

A. Because her inspection certificate had expired a few days before and I had failed to ask the inspectors to come down there and pass her.

Q. And the inspector came down there and locked up your propeller?

A. No; he came down there and notified me that I couldn't go out until she had been passed.

Q. Then the fact of the matter is that the "James Makee" could [1850—1917] not come abreast of the "Intrepid"?

A. Yes, she did. She came in near abreast, but hauled her stern with this surf line right close in to the "Celtic Chief."

Q. All the time the "Mokolii" was towing on her?

A. I think the "Mokolii" dropped her and we hooked on to the anchor-line, and we took the surf line and we run it to the stern of the "Celtic Chief" and hove the stern of the "Makee" right back towards the stern of the "Celtic Chief."

Q. Do you mean to say that you didn't drop your anchor until you had, after your surf line was aboard?

A. No, if I remember right, we dropped our anchor first.

Q. What was the necessity, then, of drawing your-

(Testimony of Frederick C. Miller.)

self in by means of the line after you had got your anchor dropped?

A. The necessity was that we got a heavy wire attached to the anchor.

Q. So it was taking in this big wire line that—

A. To get the big wire line to the "Celtic Chief" necessitated the hauling of the "James Makee" back.

Q. Did you regard the position of your anchor with reference to the "Celtic Chief," after you got it down, as the proper place for you to have your anchor? A. Astern?

Q. Yes.

A. There was a question about that. I think now that it was all right.

Q. Didn't you think so then?

A. I thought that the port quarter was the best place for it.

Q. Why?

A. I'll tell you why, Mr. Olson. The "Celtic Chief" lay on the reef with the bow directly to the breakers, almost at right angles to the line of the breakers; the surf was running in heavy, right straight astern, but a little, if anything, on the starboard quarter; on her port quarter there was six fathom of water. I dropped her six and a half fathom on this side of [1851—1018] the stern. There was not quite so much water. I was figuring if she come off that way this surf running on the starboard quarter would help her. That was my first idea. Captain Macaulay and Captain Henry objected to that, and said that in their judgment the best position was right straight astern.

(Testimony of Frederick C. Miller.)

Q. When did they tell you that?

A. That next morning, Wednesday morning.

Q. As a matter of fact, Captain Miller, wouldn't this have been the result if you kept hauling her on the port quarter, with your anchor, wouldn't it have had a tendency to throw the ship more around broadside on the reef?

A. It was not so; it was on the quarter, Mr. Olson, that it would have pulled her off at the same time.

Q. If you could have got her off, you mean?

A. Yes.

Q. Suppose you had failed to get her off?

A. She never could have gone on the reef broadside with that anchor on the port quarter.

Q. Supposing your line had parted?

A. If my lines had parted that I was pulling on and she started she certainly would have.

Q. As a matter of fact, that was the reason why it was decided to lay the anchor more astern?

A. I am not prepared to say or question their judgment. I think they were right.

Q. Wouldn't it have been better to have been on the starboard quarter?

A. No; have the swell to help the swell is what brings a ship off.

Q. It makes her opening? A. Yes.

Q. I think you testified that it was about eight P. M. when the men had gone for their supper on Wednesday night?

A. Possibly eight o'clock. I think it was late.

Q. Well, then, if—

A. No, I think it was dark. [1852—1019]

(Testimony of Frederick C. Miller.)

Q. And they went to get their supper immediately after you got your tackles rigged and hove them taut?

A. No; they hove them taut long before that. We hove those tackles taut in the forenoon, Wednesday.

Q. You had them taut in the forenoon?

A. I wouldn't say we had them taut that time.

Q. Is that what you mean when you say you had them taut in the morning? A. In the forenoon.

Q. In the forenoon?

A. We hove those in in the forenoon and hauled them taut. In the afternoon we tested them again for any breaks or weakness; then we hove them in in the afternoon.

Q. When you went about the deck there various times on Wednesday afternoon and evening you made a careful note, did you not, of the vessels, of the various lines and wire that came to the "Celtic Chief" and were attached to her? A. Yes.

Q. Did you observe that the "Arcona" line on the starboard went through a chock about amidships?

A. Yes.

Q. The line on the port came through the side of the vessel at the break of the poop; that's correct, isn't it? A. That's correct.

Q. The "Mikahala" line went through the corresponding chock on the other side?

A. That's right.

Q. Did you observe that the "Mikahala's" lines were directly—

A. No, sir, because the "Arcona" line came in on the port side.

(Testimony of Frederick C. Miller.)

Q. I'm talking about the starboard.

A. They came in through them chocks.

Q. Isn't it the fact that the "Arcona" line on the port side of the "Celtic Chief" went right over the "Mikahala" line on the starboard side?

A. Not to my observation. [1853—1020]

Q. Didn't it go anywhere near it?

A. Not anywhere near it.

Q. Did it go off to the starboard?

A. The "Mikahala's" line came in through that chock and made fast right to the bitts that was right forward of the chock, and the "Arcona's" came in starboard chocks.

Q. I'm asking about the "Mikahala's" line on the outside of the vessel. Didn't the "Mikahala's" line on the outside come along astern? A. Sure!

Q. Then wasn't it fast either above or below the "Arcona's" line?

A. It must be fast either above or below.

Q. Which was above or below?

A. I don't recollect.

Q. Right next to the vessel? A. No.

Q. Way off on an angle?

A. Not way off on an angle, either.

Q. How was it?

A. I would say—I should say at the point where the "Mikahala's" line came in, I should say it was at least three or four feet off.

Q. Off the side? A. Off the side.

Q. And the "Arcona" was that much on the starboard of the "Celtic Chief"?

A. It may have been.

(Testimony of Frederick C. Miller.)

Q. Well, was it?

A. The "Arcona" was approximately astern. No, because the "Arcona" had a bigger beam than the "Celtic Chief."

Q. You observed that she had a bigger beam?

A. I observed that she had a bigger beam.

Q. How much bigger beam?

A. I should say that the "Arcona's" beam—I'm giving my judgment only—that she has at least twenty foot more beam.

Q. That is, ten foot on either side? A. Yes.

Q. And you think that ten feet would make a lot of difference?

A. I don't think anything about that, but I think the "Arcona's" [1854—1021] line was three or four feet off the "Mikahala's" line.

Q. Do you mean to say it was the "Mikahala" line that came in the starboard chock that was off at that angle? What about the "Arcona's" line on the port side? Did it also come in at an angle from the port?

A. I don't think that was off nearly as far as the other one. I think that was closed to the side.

Q. That means, does it, that you could stand back on the forecastle and see those lines?

A. I could see those lines with the searchlight from the forecastle, perfectly clear.

Q. What accounts for the fact?

A. The search-light accounts for it.

Q. Could you see directly astern?

A. No, you couldn't see the Miller Salvage Co.'s line.

Q. Why not?

(Testimony of Frederick C. Miller.)

A. Because they were right over the stern and forecastle, that light. If you stood over this side it's a little bit better—you can see.

Q. What is the width of the forecastle of the "Celtic Chief"?

A. The forecastle at the break of the forecastle is nearly, not quite, very nearly the width of the ship.

Q. Yes. A. Very near.

Q. How far was the capstan from the break of the fo'c's'le?

A. The capstan is probably—I'm telling you from memory—is probably about twelve-foot.

Q. What was the width of the ship at the point where the capstan was located?

A. Probably—I can tell you from guess only.

Q. About the same?

A. Oh, no, it began at the break of the fo'c's'le—it began to break in somewhere, not much, near the fo'c's'le deck.

Q. It was pretty plain to you? A. Pretty plain.

Q. So she'd be pretty nearly the same width at the point [1855—1022] where the capstan was located as she was down about amidships?

A. Not quite the same. There was some difference, not very much.

Q. Just a trifle less than where the break of the fo'c's'le was? A. It would be a trifle less.

Q. You said the arms of the capstan were eight feet. That would make sixteen feet from tip to tip?

A. Yes.

Q. You said three or four feet from the end of each capstan back to the rail? A. About that.

(Testimony of Frederick C. Miller.)

Q. That would make, say at the most, eight feet for the space between the ends of the bars and the rails and eight feet for the bars themselves?

A. Yes.

Q. Making a distance of not more than twenty-four feet from rail to rail? Do you know the width of the beam of the "Celtic Chief"?

A. I think it is about twenty.

Q. Don't you know that it is thirty-nine feet and several inches? A. I don't know.

Q. Do you know, deny that is the width?

A. I deny that I know it.

Q. You're a pretty good judge of vessels. Don't you know that she was probably forty feet?

A. I would say something about it.

Q. How do you account for the fact that it was only twenty-four feet at the capstan when it was practically the same there as it was about amidships of the "Celtic Chief"?

A. I only account for it this way. I think it is twenty-four.

Q. You are sure that a person could stretch from the end of the bar where he was working over the rail of the vessel?

A. I'm sure that a man working on the end of those bars and walking around that capstan could.

Q. It was with a man walking around and around with the end that the man could see everything going on better than [1856—1023] he could from the main deck? I asked you if a man standing at the end of one of those bars could lean over and see over the side of the rail.

(Testimony of Frederick C. Miller.)

A. I don't know that I testified or anybody else testified he could see.

Q. Now, then, Captain Miller, I refer to your direct testimony where you said that the end of the capstan bars from the capstan came to within four foot from, three to four foot from this rail, referring to the fo'c's'le rail.

A. Yes, I think you'll also remember, Mr. Olson, that I said those figures were approximate figures, all these figures were approximate.

Q. If she was about thirty-five feet, it would be a trifle more; it would be ten or twelve?

A. That depends upon how large bars.

Q. You have already testified that they used practically the same length? A. It was frequently so.

Mr. MAGOON.—Do you withdraw the other question, Mr. Olson?

Q. Then I'll ask you this question: Could a man, standing at the end of one of those capstan bars, by leaning over, see over the rail of the fo'c's'le?

A. From the end of those capstan bars?

Q. I'm asking you to testify. The question is, Could a man stand at the end of one of those capstan bars and see over the rail?

A. I think a man would be able to work on those capstan bars and see over the vessel.

Q. Over the rail? A. I think so.

Q. He could see over, beyond, more than above it?

A. Yes.

Q. You don't know he could see alongside the vessel?

A. I don't think he could along the side of the vessel.

(Testimony of Frederick C. Miller.)

Q. Do you mean to say now that it was more than three or four feet from the end of the capstan to the rail?

A. I don't think so. It's the best of my remembrance, from the end of that capstan bar. [1857—1024]

Q. They were eight feet, the bars?

A. That's the best of my knowledge.

Q. You testified positively on that, that they were eight feet?

A. I testified that to the best of my knowledge they were eight-foot bars and I think they were.

Q. Couldn't have been seven or eight feet from the end of the bars to the rail?

A. I don't think it was.

Q. Could it have been five feet?

A. I don't think it was.

Q. Then do you wish to change your testimony as to the width of that vessel?

A. I don't know. I mean to say she was. It may have been the further line that we saw.

Q. You testified, did you not, that she was forty feet wide in the middle? A. I judge that.

Q. There wasn't much difference where the capstan was? A. I judge it was not.

Q. And you mean to say that it wasn't more than three or four feet from the end of the capstan bar to the rail?

A. I mean to say just what I said, to the best of my knowledge and belief there was three or four feet.

Q. How, then? Do you question the fact that she

(Testimony of Frederick C. Miller.)

is as wide there as she is amidships?

A. I don't question it at all.

Q. You say both things: first, that she was practically as wide where the capstan was, amidships on the fo'c's'le, and also that it was only three or four feet from the end of the bars to the rail?

A. You're putting words in my mouth. I said the width of that fo'c's'le was about the same as her amidships. She didn't curve in much.

Q. And the capstan was only twelve feet forward of the break of the fo'c's'le?

A. I don't know; it was [1858—1025] near.

Q. That's your best judgment?

A. That's my best judgment.

Q. Do you remember the height of the bulwarks on the main deck? A. Yes, approximately.

Q. How high?

A. (Witness indicates point on chest.)

Q. About five feet? A. What's this?

Q. Let's measure it and see. You look at that tape measure. Is that right—four feet and eight inches?

A. I should say to the best of my judgment that is about it.

Q. You have a tape measure to that point I've indicated as four feet eight inches?

A. That's about it. I only judge by looking over the bulwarks they would come to about that.

Q. Those were solid, were they not?

A. Those were solid with the exception of the chocks in them.

Q. Where were those chocks, referring to the per-

(Testimony of Frederick C. Miller.)

pendicular? A. Quite near the bottom.

Q. Almost below? A. Very near.

Q. That's where chocks are always located?

A. Very nearly.

Q. An inch or two? A. More than that.

Q. Three or four?

A. Six or eight inches from the bottom. The chock would be six or eight inches above.

Q. About six or eight inches above on the—

A. Main deck.

Q. And you mean to say, do you, Captain Miller, that standing on the fo'c's'le deck you could not only see the "Arcona's" lines, but you could also see them dragging down practically slack in the water along the side of the "Celtic Chief"?

A. That is what I mean to [1859—1026] say, with the exception that on the starboard side of the fo'c's'le deck we could see the starboard line and I think my anchor on the other.

Q. You couldn't see that from the capstan bars?

A. I don't remember going on, working the capstan.

Q. And you then could stand by the capstan bars and make that same observation?

A. I didn't do it.

Q. Do you think so according to your best judgment?

A. I think a man could, as he went around, he could see.

Q. You feel pretty sure of that?

A. I think the one who was on the upper end of

(Testimony of Frederick C. Miller.)

those bars could see them.

Q. You were around on that fo'c's'le deck and the rail? A. I was.

Q. So that you are able to judge pretty well?

A. Fairly well.

Q. What time of Wednesday was it that you first used the "Celtic Chief's" steam winch or donkey-engine? A. What time Wednesday?

Q. Yes. A. Oh, we used it in the afternoon.

Q. About what time?

A. I can't tell you. We used it two or three times at intervals.

Q. How long did you use it the first time you used it?

A. I don't think we used that winch over—I think the longest we had it was an hour or so. From half an hour to an hour. We didn't have it continuously or we didn't use it continuously.

Q. That was Wednesday morning; once or twice?

A. We used it on Wednesday.

Q. Did you use it Wednesday afternoon?

A. I'm not sure we used it Wednesday afternoon; I'm not sure, but I think we did.

Q. How many times?

A. I don't remember, because we had difficulty in getting it. That was one of the [1860—1927] difficulties we had on board of that boat.

Q. You don't think of a time when you used it Wednesday?

A. I know for a matter of fact we used it after dusk.

Q. I'm asking you about Wednesday afternoon.

(Testimony of Frederick C. Miller.)

A. I think we used it. I'm not certain.

Q. More than once?

A. We may have used it more than once. I don't know.

Q. You have no idea?

A. I don't remember. My remembrance is that we used it once or twice and then it was taken from us. I remember once they used it in connection with the Inter-Island boats discharging and it was taken from us. Captain Henry stopped us.

Q. How many times did you use it Wednesday night after dusk?

A. Only to the time, to my remembrance once after dusk Wednesday night.

Q. And about what time was that?

A. I should say, if I remember right, when we first started to heave the slack on that winch, that was somewhere between eight and nine o'clock, if I remember right. I know I gave the donkey-man some money, the donkey-boiler man, to get steam up for me and that was I remember somewhere about nine o'clock.

Q. That's the time you first made any special pull is it?

A. Somewhere between eight and nine o'clock is when I think were—we stopped pulling.

Q. Before that you hadn't been pulling any at all?

A. Yes, we had, in the afternoon. So that you'll understand this, Mr. Olson, we hove and hove and got taut.

Q. About what time was that?

A. We hove taut first on the hawser and then

(Testimony of Frederick C. Miller.)

afterwards we gave it another good heave.

Q. Can't you tell me what time that was?

A. It was late in the afternoon.

Q. Late in the afternoon? A. Possibly.

Q. You don't know?

A. I don't know. [1861—1028]

Monday, August 28, 1911.

Q. Captain Miller, have you found the voucher which was given to you when you paid for the anchor and lines and gear and so forth that you purchased from Captain Medcalfe?

A. I have not. Our bookkeeper is looking through the office for it.

Q. They are still looking for it?

A. Yes. We'll have our bookkeeper here that kept our books at that time, kept our books subsequent to that. I think Judge Weaver intends to have him here.

Q. That's not what I want so far as your testimony is concerned, whether or not Mr Vannatta is going to testify. What I wish is to have the voucher to which I have referred produced by you personally on the witness-stand.

A. If it's obtainable we'll produce it.

Q. Have you looked for that voucher since you were last on the stand?

A. I haven't had much time yet.

Q. You are not prepared to say whether or not such a voucher was given to you any more positively than you testified last time?

A. I'm not positive about any voucher.

Q. And you still say that you don't know whether

(Testimony of Frederick C. Miller.)

or not a voucher, you received a voucher or that you paid the sum of about \$2,300.00 for that anchor and gear as shown by the voucher?

A. No, I didn't pay any \$2,300.00. If I remember rightly, he had money to pay me.

Q. For what?

A. They had money to pay me for picking up anchors, for assisting Medcalfe for what he was pleased to call expert services, and if I remember right the balance of debt was in my favor. I don't think I paid Medcalfe any money, and as a matter of fact I had no transaction with Hackfeld at all.

Q. You are sure of that?

A. I had no transaction with [1862—1029] Hackfeld. It was in Hackfeld's.

Q. You've never had a single money transaction with Hackfeld & Co. bearing upon or connected with the "Manchuria" matter?

A. I did not. I had with Medcalfe.

Q. Not even in connection with the matter of picking up the anchors with the "James Makee"?

A. No. That was Medcalfe.

Q. Are you prepared to say that? A. I am.

Q. You are sure of that?

A. I'm sure of that.

Q. Are you sure that that sum was not allowed to you in the settlement of the anchor and gear account which took place then?

A. If I remember right, Medcalfe had Klabbaum to come out and bring him in some money, and if I remember right he paid me money and I didn't pay him, but it was with Medcalfe direct. Now, how he

(Testimony of Frederick C. Miller.)

arranged his business with the house of Hackfeld & Co., that I don't know, but all my business in that connection was directly and solely with Medcalfe.

Q. How long preceding the salvage operations of the "Celtic Chief" was it that that big anchor had been used by you? How long previous to that time had it been you had used that big anchor?

A. I don't think I'd used that until it was used on the "Celtic Chief."

Q. Where had that anchor been for the week or two preceding, before that time you used it on the "Celtic Chief"?

A. In a yard belonging to the Dowsett Estate which I had under rental, past the oil tanks.

Q. It was in a yard which you had leased?

A. Yes, right past the Iwilei oil tanks.

Q. Where were the appliances other than the anchor which you used in connection with that anchor? A. In the same yard. [1863—1030]

Q. Prior to the time that you actually used that anchor on the "Celtic Chief"? A. Same place.

Q. You had them all there?

A. Practically all; some on the "Makee."

Q. You had all of the appliances which you used for a week or so at least prior to the time that the "Celtic Chief" went on the reef?

A. I didn't have them all there.

Q. Did you have them all? A. I had them all.

Q. Ready for use? A. Ready for use.

Q. They could have been used at any time?

A. Yes.

Q. You could have used them at a moment's notice?

(Testimony of Frederick C. Miller.)

A. No.

Q. Do you think you were able to get them out and ready to use them at a moment's notice?

A. Yes, that's what I kept them for.

Q. In other words, there was nothing to prevent your getting them out on a minute's notice?

A. Not a single thing except the captain's orders.

Q. And Pilot Macaulay?

A. I didn't take Pilot Macaulay's orders. I took orders, as far as the authorization of me to do anything—I didn't look to him as the man in command.

Q. You didn't regard Pilot Macaulay as having anything to do especially with the matter as far as you were concerned?

A. No, sir.

Q. But you had this conversation with Captain Henry and Pilot Macaulay, did you not?

A. I'm giving you now—that is the best of my recollection. When I first went aboard the ship I think Macaulay was present. When we talked of leaving the ship on Tuesday morning, Macaulay I think was asleep. This was about half-past two Tuesday morning, when Captain Henry wanted us to discharge. [1864—1031]

Q. Why did you then say on direct testimony that you had this conversation with Captain Henry and Pilot Macaulay?

A. I never did say that Tuesday morning when I had that talk Pilot Macaul was there. I couldn't have said it because he was not there and I couldn't have said a thing that wasn't so.

Q. So that this conversation that you spoke of which you had with Captain Henry on Tuesday

(Testimony of Frederick C. Miller.)

morning was with Captain Henry alone, was it?

A. On Tuesday morning about half-past three when I left the ship.

Q. Nobody else was there except you and Captain Henry? A. I don't remember of anyone else.

Q. Was there anyone else?

A. Our men was around there because I was standing right at the rail.

Q. What men were these?

A. Oh, I don't remember. I had over a hundred men there.

Q. But there was no one of those men that you can now name? A. Not that I can remember.

Q. In other words, you are the only person in the Territory of Hawaii, in so far as you know, who can testify as to what was said between you and Captain Henry in this conversation? A. Quite so.

Q. In other words, there's no other witness in the Territory of Hawaii? A. As far as I know—

Q. Which could testify either in favor or against. You have no record of that conversation?

A. At that particular conversation none that I can recollect.

Q. Very much like the Medcalfe conversation that you have testified to? A. Similar.

Q. You used the same winch of the "Celtic Chief" for the purpose of heaving in on your anchor tackles— A. We did.

Q. Just a moment. Whenever you could get that winch [1865—1032] did you? A. We did.

Q. Why did you want to use the winch?

A. Save our men.

(Testimony of Frederick C. Miller.)

Q. Was that the only reason?

A. That's the only reason.

Q. Simply to enable them to get a rest?

A. Well, it saved our men. If I used steam I wasn't using man power.

Q. You had the men there? A. Yes.

Q. What was the reason why you used the winch instead of the men?

A. Save our men. I've already answered.

Q. Why did you want to save your men?

A. Might want them later on. I didn't want them played out.

Q. Why wouldn't you use man power if you could get steam? A. Why wouldn't I?

Q. Yes.

A. Steam power we always considered it a little more effectual. The men had been working all through the night.

Q. There were only twenty-four men working at a time on the capstan?

A. Yes, but the tackles required looking after.

Q. How many men on the tackles?

A. I don't remember now, Mr. Olson, how many men on the tackles.

Q. No idea?

A. We had twenty-four men on the capstan and we had relieves. That would make forty-eight and we had twenty or thirty men approximately.

Q. Twenty or thirty men required on those tackles? A. Yes.

Q. How often would they fleet the tackles?

A. The third luff quite frequently.

(Testimony of Frederick C. Miller.)

Q. How often?

A. I don't know. When [1865½—1033] you're on a ship like that you don't figure two or three or a dozen men. You put on as many as you can get or need or you think you need.

Q. Whether they're necessary or not?

A. I also consider it necessary to have plenty of men on a salvage ship.

Q. When did you first come out to the "Celtic Chief" on Wednesday?

A. On Wednesday; I went that Tuesday night. I never left her.

Q. Until she came off? A. Until she came off.

Q. Were you on the "Celtic Chief" all this time?

A. I went aboard of her Wednesday morning. I went out to her Tuesday afternoon just about dusk.

Q. You went aboard of her Wednesday morning?

A. I went aboard of her Wednesday morning.

Q. And you stayed aboard until she came off Wednesday night? A. Yes, and after that too.

Q. Who actually performed the work of putting in the hawse-pipes supplied you by the Honolulu Iron Works which were installed in the "James Makee" as you have testified?

A. Who actually did it?

Q. Who did the work? A. I don't remember.

Q. Did the Honolulu Iron Works have anything to do with it?

A. I don't think they did. I think they only supplied the casing and the long bolts.

Q. Were there any additional hawse-pipes than those you have already testified to that were installed in the "James Makee" within say a year on either

(Testimony of Frederick C. Miller.)

side of the time that you spoke of?

A. No, there was none.

Q. You say that was during 1906 or 1907?

A. There has only been the one set of hawse-pipes installed in the "James Makee" since I have owned her.

Q. Any way, these hawse-pipes from the Honolulu Iron Works, you ordered them as hawse-pipes to be installed in the "James [1866—1034] Makee"?

A. I don't know whether I ordered them to be installed in the "James Makee."

Q. You ordered these hawse-pipes for the "James Makee"? A. If I remember—

Q. But you did, did you not?

A. I don't know whether I mentioned that they were for the "James Makee."

Q. Do you know whether or not you installed any hawse-pipes in the "Concord" within, say, a year and a half before that?

A. I don't remember of putting in hawse-pipes in the "Concord."

Q. Do you know whether or not you did? You know the "Concord" pretty well?

A. I'm telling you I don't think I did.

Q. You're sure of it?

A. No, I tell you the best I know how.

Q. You know pretty well what's been done to the "Concord" during the last five or six years?

A. Since I have owned her.

Q. Has she had any hawse-pipes put in her during that time? A. I don't think she has.

Q. What about the "Kaimiloa"?

(Testimony of Frederick C. Miller.)

A. I don't remember whether we put any in the "Kaimiloa."

Q. Did you do so? Do you remember of any having been put in the "Kaimiloa"?

A. I don't remember of any hawse-pipes being put in.

Q. You think, do you not, that none have been put in the "Kaimiloa" during that time?

A. I think none have.

Q. Have any hawse-pipes been put into the "Mokolii" during that same period of time?

A. I think so.

Q. Who supplied them?

A. I don't remember of buying hawse-pipes from the Honolulu Iron Works.

Q. Where were those purchased for the "Mokolii"?

A. I don't know and I'm not certain that I did.
[1867—1035]

Q. Where would it have been, as far as you can remember?

A. If any hawse-pipes was put into her since I owned her it must have been previous to two years ago.

Q. Would it have been about the same time you had them installed in the "James Makee"?

A. I don't know.

Q. Would they be smaller?

A. Infinitely smaller.

Q. What about any other boats that you had?

A. I don't remember of any except the "Lehua."

Q. Did you put hawse-pipes into her and when?

(Testimony of Frederick C. Miller.)

A. Oh, that was long before.

Q. Long before you purchased the "James Makee"?

A. Long before I owned the "James Makee."

Q. Then those are the only ones that you can remember?

A. The only ones I can remember about that time is those we put in the "James Makee."

Q. Those are the only ones that you remember?

A. Those are the only ones that I remember.

Q. How large are they?

A. I can't remember the size now but they are there to be seen.

Q. How many hawse-pipes were put in the "Mokolii"? A. I'm not sure.

Q. That was a part of the rebuilding of the whole vessel? A. Part of it.

Q. I'm asking if that isn't—

A. If we put them in it would be part of it.

Q. Who had the contract for the rebuilding of the "Makee"?

A. No contract at all. We did it; day's labor.

Q. You did it by day's labor? A. Yes.

Q. If there were hawse-pipes, you say, supplied for the "Mokolii," it was a part of that job?

A. Yes.

Q. Well, do you know whether or not there were hawse-pipes [1868—1906] installed as a part of that job?

A. No, I can't tell you if that was put in at that time.

Q. So far as you know no hawse-pipes may have

(Testimony of Frederick C. Miller.)

been put in at all?

A. I wouldn't swear that they had. I wouldn't swear that they hadn't.

Q. Would your accounts show what was done to the "Mokolii"? A. No.

Q. Why not?

A. I don't think a very good system of accounts was kept.

Q. Was that since the Miller Salvage Company was organized that the "Mokolii" was rebuilt?

A. I don't remember whether she was rebuilt before or after.

Q. Have no idea?

A. Yes; I have an idea that it was done before, but I'm not certain. I bought her as a hulk personally, I recall it.

Q. And you rebuilt it personally?

A. And I rebuilt it. And then I bought the engines to put into her.

Q. Isn't it the fact that rebuilding of the "Mokolii" took place prior to your —— of the "James Makee"?

A. I think so. I am not certain, but I think so.

Q. You're pretty certain that that's so?

A. I disremember, but I think I rebuilt her that early. I don't know whether I did or not. I wouldn't say.

Q. You have absolutely no recollection about it?

A. About just—I only remember when I bought the "Makee" from the "Manchuria" question, and I don't remember when I rebuilt the "Mokolii" or whether I purchased it prior to the "James Makee,"

(Testimony of Frederick C. Miller.)

but when I don't recollect.

Q. From whom did you buy her?

A. From Young Brothers.

Q. And how long after you purchased her did you rebuild her?

A. Oh, it must have been a year or two.

Q. You waited a year or two after you purchased the "Mokolii"?

A. Yes, I rebuilt her. [1869—1037]

Q. Which was the first boat that you purchased after you came down to the Islands?

A. The steamer "Lehua."

Q. Which? A. The steamer "Lehua."

Q. How long after you came down was it that you purchased her?

A. I think about, say, two years—year and a half.

Q. You came down here in 1904?

A. Yes. No, about 1904.

Q. Early part or latter part of the year?

A. I don't remember; I think in March. If I remember right, it was March.

Q. And you think that you bought the "Mokolii" about two years later?

A. I think so. I don't know.

Q. That would be about the early part of 1906; is that right?

A. Yes, if it was two years later that would be right.

Q. I'm asking for your recollection.

A. I don't know when I bought the "Lehua."

Q. Then that was the next boat that you purchased after the "Lehua"?

(Testimony of Frederick C. Miller.)

A. The next boat after her I think was the "Mokolii."

Q. Now, about how long after you purchased the "Lehua" was it that you purchased the "Mokolii"?

A. I think I can give you that if it's important.

Q. You can get me when it was that the "Mokolii" was purchased?

A. I think I can. I think we have a bill of sale somewhere.

Q. Can you ascertain that sufficiently, to satisfy your own mind, from the Young Brothers?

A. They may remember it.

Q. You have absolutely no recollection whether it was a short time or a long time after you purchased the "Lehua"?

A. No, I can't remember. I've bought and owned so many [1870—1038] boats I can't remember the days I bought them or sold them.

Q. What was the next boat that you purchased after you purchased the "Mokolii"?

A. The "Mokolii"? I think the "Elehu." No, I think the "James Makee." No, the "James Makee" came first, I think, then the "Elehu."

Q. And you think it was a year or two after you purchased the "Makee" that you rebuilt her?

A. Yes.

Q. Then wasn't it, as a matter of fact, after you reconstructed the "James Makee" by installing this windlass? A. It may have been.

Q. Wasn't it, as a matter of fact, after that that you rebuilt the "Mokolii"?

A. It may have been. I don't say it was or wasn't.

(Testimony of Frederick C. Miller.)

Q. You have undertaken to say that you thought that the "Mokolii" was rebuilt a year or two after you purchased her? A. I think so.

Q. And you say that the "Eehua," you think, was purchased about two years after you came down to the Islands? A. I think so.

Q. Then it must have been somewhere in 1906, the early part of 1906, that you purchased the "Mokolii"? A. Yes.

Q. And if you rebuilt her it must have been somewhere in 1907 that you rebuilt her?

A. If those dates are right it must have been.

Q. You've given them as your best recollection? Now, according to your recollection, the "Mokolii" was built sometime after the installation of this windlass and these hawse-pipes in the "James Makee"?

A. I think it was.

Recess.

Mr. OLSON.—I have no more questions to ask except with [1871—1039] reference to the voucher given to Captain Miller for the settlement of the Medcalfe anchor and appliances account and also the matter concerning which I have just asked Captain Miller, when he purchased the "Mokolii," and I think we can go on with the cross-examination.

Cross-examination of F. C. MILLER on Behalf of
Libellants Inter-Island Steam Navigation Co.
and Matson Navigation Company.

Mr. WARREN.—Q. Captain, when you went out to the "Celtic Chief" in the neighborhood of seven o'clock on Monday morning, at which time you have said the "Intrepid" and "Huki Huki" were pulling,

(Testimony of Frederick C. Miller.)

what was the condition of the "Intrepid's" line at that time?

A. The "Intrepid's" line was a line very near astern which ran in on the "Celtic Chief's" starboard stern chock and she was very near astern and she was pulling, I judge, all she could, and it was taut. Her line was taut and her propeller was churning up the water.

Q. That was her starboard quarter chock?

A. Starboard stern chock on the "Celtic Chief." She had two stern chocks—one on the port side and one on the starboard side.

Q. In what direction was the "Intrepid" pulling?

A. Very nearly astern.

Q. More over to one side than the other?

A. If anything, a little to the starboard quarter, if anything.

Q. Now, at the time you went out there and had the conversation with the captain of the ship as to lightering, the captain said to you that the "Intrepid" and "Huki Huki" would hold the "Celtic Chief" while you would lighter her?

A. Both Pilot Macaulay and Captain Henry were there, and there was considerable discussion and they both laughed and both said when I asked them, "What's going to hold your ship when [1872—1040] I take out the cargo?" Both said, "Well, the 'Intrepid' and the 'Huki Huki' would."

Q. How did those vessels compare as to size?

A. There would be practically no comparison, because one is a gasoline launch and the other is a steam tug.

(Testimony of Frederick C. Miller.)

Q. In that conversation as to the "Intrepid" and "Huki Huki" holding the "Celtic Chief," did you in that conversation make a suggestion about your own anchor? A. About my own anchor?

Q. Yes. A. I did.

Q. And offer to put it out?

A. I offered them to put it out and they thought that's the first thing that should be done.

Q. And you didn't believe the "Intrepid" and the "Huki Huki" couldn't hold her?

A. The "Huki Huki" was a negligible quantity on a ship of that size. The "Intrepid" I don't think would hold her.

Q. Why not?

A. I don't think the "Intrepid" had power enough.

Q. What was the condition prevailing as to the ship?

A. The ship was thumping and there was a heavy swell running in and she could have done so, but I doubt—it's a question I wouldn't be prepared to say, but I wouldn't trust her.

Q. You don't think so at that time?

A. I don't think so at that time; no, sir.

Q. But you accepted the judgment of the captain and agreed to lighter. That is, you accepted his judgment and took his orders to bring out the lighters?

A. I took his orders because he wouldn't listen to any other thing. After that some one of them said they expected the Inter-Island boats to come out and they would help hold her from going ashore. They weren't there but they was expected to be out. I

(Testimony of Frederick C. Miller.)

don't remember just now, but I think [1873—1041] they saw them coming out of the harbor.

Q. In that connection, how far on the reef do you think the "Celtic Chief" was about seven o'clock that morning?

A. The best of my judgment, Mr. Warren, that morning that ship was to my judgment, at least, say, from her bow aft, say one quarter on the reef. One quarter to a half.

Q. Of her length?

A. Of her length. One-quarter or one-half, I couldn't tell you. To the best of my judgment.

Q. And what time did you take your soundings, Captain?

A. I took the soundings, I think, when we came back. I'm not sure whether I took them then or when we came back.

Q. You took them either when you arrived or as soon as you got back? A. Yes.

Q. When you came back you brought with you the "Concord"? A. Yes.

Q. And made her fast before taking soundings?

A. Yes, I think so.

Q. What time did the "Makee" get out? How soon after?

A. The "Makee" came out either that afternoon or that evening.

Q. Did you take the soundings before the "Makee" came out?

A. Yes, I took soundings. I'm sure I took two or three soundings there at different times, but—

Q. Now, referring to the first of those, as near as you can.

(Testimony of Frederick C. Miller.)

A. As near as I can remember, the first soundings I took was when I came back with the "Concord," but I'm not certain as to that.

Q. And what did those soundings indicate?

A. Those soundings indicated to me that the ship was on forward and just how far aft I couldn't tell.

Q. Now, in your direct testimony you said there might have been a difference of possibly two feet between the bow and the stern, with respect to what soundings was that testimony? The first one or a later one? [1874—1042]

A. I think that was the first soundings. We had difficulty, so that you will understand my hesitancy in answering this; as you'll understand, Mr. Warren, in sounding that ship all day Monday and Monday night there was a moderate swell running and when that swell was running it was difficult to see what those soundings were, and also we noticed that the *water less* on that bow, and our man and myself, that is our judgment. Just how much her roadway was out of the water, on account of this swell running, I can't tell.

Q. But your recollection of your first sounding is that there was approximately two feet difference?

A. About two foot difference.

Q. Between the soundings at her bow and the soundings at her stern?

A. It might have been. There might have been a little more, there might have been a little less; I don't know. It's difficult to sound around her to get the exact depth. You had to use your judgment a great deal between the swells.

(Testimony of Frederick C. Miller.)

Q. Don't you think it was a greater distance than two feet—three feet if she was one foot?

A. No, she was half her length.

Q. What kind of a bottom as to grade?

A. It's an uneven bottom and one's lead line may drop into a *puka* in the bottom.

Q. Do you remember at all what the soundings were in feet?

A. I don't recollect just now. I've since regretted that I didn't jot them right down in a memorandum-book.

Q. Do you know the draft of the ship?

A. I could tell you from memory. If I remember right, her load water line—I'm giving you from memory—was about twenty-two feet.

Q. You saw that at the bow?

A. At the bow and we steamed around her in the launch after we made examination on her deck.

[1875—1043]

Mr. OLSON.—With your permission I'll ask that question. This says that the "Mokolii" was purchased by you in November, 1906. What records are those?

A. Receipt or bill of sale from Young Brothers to me personally.

Mr. WARREN.—Q. You say that on Monday morning her stern was rising and falling?

A. Her stern, well, yes, the stern and the ship was thumping—was rising and falling.

Q. Bumping on the reef?

A. Bumping on the reef.

Q. Now, where was that bumping, as near as you can say? What part of the ship?

(Testimony of Frederick C. Miller.)

A. To the best of my judgment, at the time the heaviest bump was after she seemed to be striking after. That is, in other words, her bow seemed to be fast more firmly ashore, than her stern. That was my judgment.

Q. Her bow was fixed?

A. Her bow was more fixed than the stern. I could feel the bump aft. For instance, I would walk forward and wait for a bump two or three times, then I'd go aft and wait for a bump two or three times and I could feel it more distinctly aft.

Q. About what do you think her rise and fall was?

A. Her rise and fall was a good three feet; good three foot.

Q. There was a three or four foot swell there, all through—I don't mean from the ship to the bottom. I mean the rise and fall of the ship in the swell?

A. Oh, a good three foot. She was thumping heavy.

Q. And how frequently?

A. Quite frequently. Those swells would come in probably three at a time, then there'd be a little interval, then they'd come in. It was more than a swell that was coming in there. She'd come in so that—it wouldn't make my teeth chatter, but it was heavy.

Q. What kind of a bottom did the "Celtic Chief" have, do you know? A. Single-bottom. [1876—1044]

Q. Iron?

A. Iron construction, single-bottom ship.

Q. Do you know the depth of the keel?

A. No, I do not. Ships of that type usually have

(Testimony of Frederick C. Miller.)

from eight to twelve inches.

Q. You don't think that the "Celtic Chief" worked herself into a bed on the reef?

A. No, sir.

Q. Now, if you were told that an examination of her indicated dents on her bilges or her quarters, wouldn't that indicate to your mind that her keel had worked down into the reef?

A. I know perfectly well that that was what occurred, but that don't—a boat and keel may have gone into the reef but that doesn't alter the fact that a ship—I expect the keel would go into the reef and I wouldn't be surprised. I didn't see the ship's bottom if the bilge was dented and the only surprise was that it wasn't fractured there.

Q. Wouldn't that indicate that she had, to some extent, made a bed?

A. I don't understand that the ship's keel being in the coral is a bed for the ship. A bed for the ship would take her all in, say, for about three or four feet up on her bilges.

Q. Now, then, Captain, with a ship ashore in the way the "Celtic Chief" was on Monday morning and say on Tuesday morning, how was her stern on Tuesday morning?

A. Her stern on Tuesday morning?

Q. Yes.

A. Tuesday evening—Tuesday morning when I left her she had gone in and Tuesday evening, I judge then that she was in. After Tuesday morning when I left the ship she had gone in so much. I called Captain Henry's attention to it then. The ship was practically her whole length.

(Testimony of Frederick C. Miller.)

Q. Was there any working of her stern?

A. Not so much.

Q. Was there any?

A. There was no—at no time when I was aboard that ship, at no time when she didn't thump.

Q. With a ship on the reef as she was on Monday and up to Tuesday [1877—1045] morning, under the conditions which prevailed then, except as to pulling agencies, what can you say as to whether or not there was danger?

Mr. OLSON.—Object to the question on the ground it is incompetent, irrelevant, and immaterial, and furthermore it is calling for a conclusion of the witness and improper cross-examination.

The COURT.—Objection overruled.

Mr. WARREN.—I withdraw the question. Captain, you have testified on direct examination that you considered the "Celtic Chief" in a position of danger? A. I did.

Q. Now, what danger do you mean?

A. I mean this danger, Mr. Warren, from the time that that ship's bow touched that reef until she floated off, there was the most imminent danger of her being bilged, and if she hadn't been a steel, iron ship, she would have been bilged.

Mr. OLSON.—Move to strike the last statement of the witness on the ground it is a conclusion of the witness without a proper foundation being laid.

The COURT.—It wouldn't be fair to do it.

Mr. WARREN.—I don't object to that last part being stricken. How could she become bilged?

A. By swinging broadside on to the reef or by go-

(Testimony of Frederick C. Miller.)

ing further on which she did.

Q. What conditions were there which would likely throw, force her broadside?

A. The fact of her being bow-on to the reef, and I never knew a ship that went broadside on to the reef when her stern was held.

Q. By what force?

A. The force of the swell, the wind or the current. No boat will hold themselves right straight on the reef. She'll swing one way or the other. The wind, the sea, or the current will bilge her too.

Q. Just what do you mean by bilge—being bilged?

A. Being bilged? [1878—1046]

Q. Yes.

A. By being bilged I mean a hole punctured in her bottom and that usually causes laying on her bilge; therefore, we speak of it as bilging. Bilging usually happens along the bottom of the ship anywhere say from her —— up to the stern of her bilge.

Q. Would not her keel protect her from being bilged? A. No.

Q. Why not?

A. I'd have to show that with a diagram. Now, if the ship swings around broadside, one side or the other will be in shallow water. That naturally follows. Her side, then, will strike breaking rock or coral.

Q. Which side?

A. Which happens to be the shore side, the leaking side, the inshore side; that's the side that always bilges as a rule.

Q. In your judgment, under conditions prevailing

(Testimony of Frederick C. Miller.)

was there any danger of the "Celtic Chief" going broadside? A. There was.

Q. How long do you think it would have taken in the absence of any agencies pulling on her under the conditions which prevailed?

Mr. OLSON.—I object to the question on the ground no foundation has been laid, asking for a conclusion of the witness; furthermore, the witness is not qualified to answer.

The COURT.—I sustain the objection.

Q. Did you make any examination of the bottom to determine whether or not there were lava boulders, as you say? A. I did.

Q. When?

A. I made it when we was out there in the launch. We steamed around there in the launch first and then afterwards I took a water-glass—what we call a water-glass, a container with a glass in the bottom—and looked at the bottom and as near as I could see it was coral and lava rocks.

Q. In your judgment, was there any real danger of the "Celtic [1879—1047] Chief" going broadside in view of the fact that the "Intrepid" had hold of her?

A. Yes; I don't think the "Intrepid" could have held that boat against that swell. She may have done it, but I don't think so.

Q. Do you mean from going straight on or broadside?

A. I think that she would have gone—she did go—I know for a fact that she did go straight in. Now, if the "Intrepid" could have held her at all she would

(Testimony of Frederick C. Miller.)

have held her from going straight in. She didn't do that.

Q. After the "Mauna Kea" took hold and the "Mikahala," they could hold her?

A. From what?

Q. From being, from going broadside on?

A. I think that there was power enough when the Inter-Island boats got there to keep her from being bilged.

Q. Now, I understood you to say, Captain, that one of your boats was made fast to the "Celtic Chief" by tying to her davit. Now, which side of the ship was that and which boat?

A. Well, the "Concord" was made fast on the port side. First, let me answer your question. It was the port davit that was torn out and the "Concord" was made fast on the port side and the "James Makee" was made fast to the "Celtic Chief."

Q. Which of these two boats, the "Concord" or the "Makee," had that davit?

A. I don't remember which of those boats. We snapped our lines several times around those davits once and worked all the time, the men watching the boats.

Q. Now, when you left the "Celtic Chief" with much less, with a lighter-load of cargo, three or four o'clock on Tuesday morning, you say the captain of the "Celtic Chief" wanted you to come right back and continue lightering? A. Yes.

Q. And you told him at that time that he'd lose the ship if he continued?

A. I told him it was suicidal and he'd lose his ship.

(Testimony of Frederick C. Miller.)

Q. And he still told you to come back? [1880—1048]

A. He still told me to come back with the boats to load them up.

Q. When you did leave what was the actual understanding? Were you to come back or were you not to do more lightering?

A. I think that when I left there we had, I'm not sure, but what I told him that I would come back. What was in my mind at that time was to bring back a boat and put our anchor out and haul that taut and then bring back one or two boats and lighten up. It would have been good practice.

Q. As far as you can remember, though, you really did agree to come back with that boat?

A. I don't remember. I had this discussion at the rail and we sort of parted, I wouldn't say good friends, but he insisted upon—the fact of the matter was he insisted upon lightering and I insisted upon getting an anchor down to hold.

Q. I understand you on your direct examination, you told him he'd lose his ship and you'd see that he'd lose his license? A. I told him that.

Q. Did you agree that you'd come back and take more cargo out? A. I think we agreed.

Q. As a matter of fact, when you went on board Wednesday morning he was angry that you hadn't come back? A. He was angry.

Q. It's more than probable that you had agreed.

A. Yes, I think it's more than probable.

Q. Did you talk with him at that time about your bringing out an anchor after you came back?

A. I think I told him that I wouldn't take any

(Testimony of Frederick C. Miller.)

more cargo out of her until an anchor was laid astern.

Q. That was an absolute condition of your coming back?

A. I'm not sure, but the fact stands for itself when I did come back I brought it back.

Q. I'm referring to the understanding which you really had [1881—1049] at the time you left.

A. The understanding was that I would come back whether he was *will* for us to put the anchor down and trust to my judgment on that point. I don't think he saw because he was excited over his lightering.

Q. And you didn't ever after that send any boat back to do any more lightering?

A. The first boat that we brought back was the "James Makee" with our anchor and gear aboard her.

Q. You hadn't unloaded the "Concord" by that time?

A. We had not unloaded the "Concord," I don't think, nor the "Kaimiloa."

Q. Why not? Hadn't you had time to do that?

A. It took us all that day to get our gear down. We was at work from the time we got back until night our gear had been on the dock and on board the "Makee."

Q. How many men did it take to do that?

A. It was so large that on the Hackfeld wharf at that time was a gate and our big anchor wouldn't go through so we had to chop down the gate.

Q. It was a matter of delay and difficulty rather than number of men?

A. No, we had a number of men handling the gear.

(Testimony of Frederick C. Miller.)

Q. You would not attempt to put the anchor on board by men?

A. By golly, no. I'm not prepared to say but what some of the men weren't unloading the "Concord." I gave my attention to getting the gear aboard.

Q. Had you given any orders as to the "Concord" being unloaded?

A. If I remember right this man Ito had a number of his Japs unloading the "Concord," but I'm not sure.

Q. Well, you had given orders to that effect?

A. When I came in Tuesday morning the orders were to unload the two boats.

Q. And then do what?

A. I didn't pay no attention to [1882—1050] what them men was doing. I was paying attention to that large donkey that they've got on a big heavy truck with a windlass. As a matter of fact, we had to discharge the "Makee" by that.

Q. Did you give any orders for the "Concord" to come out again after she was unloaded?

A. I don't remember whether I did or not. We must have unloaded the "Makee" that day because she had no cargo in her but came in Tuesday morning, and she was out Tuesday night that our gear came aboard, so she must have been unloaded that day.

Q. You could have continued to lighter with the "Concord" and the "Kaimiloa" if you had unloaded them and if they had gone, taking your anchor out on the "Makee"?

A. We would have been in a position sometime on

(Testimony of Frederick C. Miller.)

Tuesday night to have done that.

Q. But you didn't attempt to do that?

A. I didn't attempt to do that without going out first with our anchor. That was the first thing, the sole thing, that I gave my attention to.

Q. How many men did you have altogether?

A. We had, as near as I can remember, about 124 men altogether, employed on that boat, on the ship, and on the—

Q. On the boats? How many of them do you think were employed with the anchor and donkey?

A. There must have been about forty or fifty that afternoon.

Q. That would leave the rest to work on the "Concord"?

A. Well, there was forty or fifty for our gear. I'm only telling you now the best I remember. They must have been unloading the cargo on the "Concord."

Q. As far as you know, there was no work done in connection with the unloading of the "Concord"?

A. I wouldn't say with a certainty that the men worked on the "Concord," and the only reason I know they worked on the "Makee" is that the "Makee" was empty so we could put our gear in. [1883—1051]

Q. So with the steamers pulling it would have been safe for you to have continued lightering it with your anchor out, you could have continued lightering?

A. Mr. Warren, I'll answer you the question, if you don't mind, this way: The facts are these: first,

(Testimony of Frederick C. Miller.)

I called Captain Henry's attention to it that morning and said, "You had the 'Mauna Kea' here and she's pulled as I never saw a steamer pull before to break a twelve-inch hawser and dented your mizzenmast. She had at the same time helping her, the 'Intrepid' and the 'Mikahala,' and I think the 'Helene' and 'Likelike.' I'm not sure, but I think so. Now, you didn't come off when the ships were pulling. On the contrary, she's further ashore than she was. What's the use of fooling, then?"

Q. If you had put out your anchor from the beginning you could have continued lightering?

A. Yes.

Q. And you consider your anchor would have made it safe? A. That's what we understand.

Q. Still, you don't recall having given any orders to have the "Concord" come out?

A. We had our launches standing by to carry orders backwards and forwards as we needed it.

Q. I understand you to say that you dropped your big anchor off the port quarter of the "Celtic Chief" Tuesday night? A. Yes.

Q. At a considerable angle to port?

A. Yes, because I believed then, at least, that her stern could be worked around to port and get her off that way. That is, I believed that then and believe it now.

Q. Did you expect to do that with your anchor alone?

A. We expected to do that with our anchor alone.

Q. Assisted by anything else?

A. Yes, by the swell of the ocean.

(Testimony of Frederick C. Miller.)

Q. That was notwithstanding the fact that—and that was notwithstanding the fact that the Inter-Island steamers [1884—1052] were pulling?

A. They would help and they did help. Why, on Tuesday night they pulled like good fellows.

Q. Wouldn't their strain have much to do with this?

A. Yes, their strain would have helped—all strains were helps.

Q. If you had got her swung off with your line broadside, what would the "Celtic Chief" do?

A. Once—if we once started that ship, the Inter-Island boats would have taken her.

Q. Even then swinging her to broadside?

A. Excuse me—don't misunderstand me. I'm not taking her straight broadside, but I'm—this would be broadside, like that. I'm not taking that way because I never intended to do that. Say here is the "Celtic Chief" and here is our anchor. It is here I'm taking, this way. What I was figuring on, Mr. Warren, was this: there was a heavy swell running and it was directly astern or a little on this starboard quarter; there was more water here—the way I figured the swell would have helped me if I once could get her started. Having the anchor astern was a bad plan. I thought at the time, I still think, if I could move the ship this way that you start the ship, if you can once get her moving on her keel—

Q. Moving on her bed?

A. She wasn't in a bed. I'll put it another way. If you once sent the suction on the ship's bottom you've got the ship. A ship when she's ashore—we

(Testimony of Frederick C. Miller.)

call it suction, we sailors—a ship that's ashore she'll suck the bottom, she'll hold like a suction. If you can once break that suction and start her you would get your ship.

Q. Did you take any soundings when you dropped your anchor?

A. Yes, we took soundings there. We had nearly seven fathoms of water where we first dropped her. When we dropped it the second time, directly astern, we had six fathoms.

Q. You remember that very distinctly? [1885—1053]

A. I remember that very distinctly, about six fathoms of water the second time; the first time about seven.

Q. When did you take that sounding?

A. We took that sounding about dusk on Tuesday night.

Q. Was that before or after you dropped the anchor on Tuesday night?

A. If I remember right, it was either the "Like-like" or the "Helene" was the closest boat to us, and we worked around and got up close under her starboard quarter, knowing the formation of that reef as I do.

Q. If you were told that there was less water where you dropped your anchor the first time what would you say?

A. If I were told that I'd maintain the same assertion. There was more water where we dropped our anchor the first night because we sounded that. We sounded where we dropped it the second time and

(Testimony of Frederick C. Miller.)

there was more water where we dropped it the first time.

Q. About what time did you get out there on Tuesday night with your big anchor?

A. About; somewhere around about dusk. It wasn't night, dark. It wasn't dark.

Q. Around six o'clock?

A. I should say the best of my remembrance is about six o'clock.

Q. And how long did it take you to pick up the anchor in the morning?

A. Not long. I should say maybe half an hour, possibly.

Q. And you sounded on Tuesday night before you dropped your anchor?

A. I sounded on Tuesday night before I dropped my anchor.

Q. How many soundings?

A. We sounded three or four times in coming in around the Inter-Island boat.

Q. How many soundings did you take right at the first spot where you dropped your anchor?

A. When I went it was about six o'clock.

Q. You dropped your anchor Tuesday night?

A. About six o'clock. [1886—1054]

Q. Then you took your soundings about the same time.

A. Yes; we wanted to know how much there was there before we dropped our anchor.

Q. Did you take those soundings yourself?

A. I took those soundings, yes.

Q. Personally? A. Personally.

(Testimony of Frederick C. Miller.)

Q. You remember that very distinctly?

A. I remember taking those soundings myself.

Q. It was an uneven bottom there?

A. It was an uneven bottom.

Q. And there might be *pukas* within a short distance? A. Yes.

Q. Considerable distance?

A. Anyone might be, but there was an uneven bottom with these *pukas* and holes.

Q. Isn't it possible that you got your line in a hole there at that time?

A. It may have been possible.

Q. Now, about what hour did you drop your anchor next morning?

A. I would say about—I would say about nine o'clock. I would say my best recollection, a little bit later. I don't think it was much earlier because we used a good deal of time going from the "Celtic Chief" and having this buoy put over the anchor position. Then we used a good deal of time in manoeuvring through the Inter-Island boats and getting in position.

Q. You are sure about the time of dropping the anchor on Tuesday night? A. Yes.

Q. You personally supervised that whole thing?

A. Yes, I personally supervised the boat that night.

Q. You sent Captain Scott with the "Mokolii" in with the surf line to the "Celtic Chief," but you are sure that the anchor was dropped Tuesday night?

A. I'm sure that that anchor was dropped Tuesday night, Mr. Warren. I'm sure of sending Captain

(Testimony of Frederick C. Miller.)

Scott in with the surf line. There is a question in my mind—I'm telling you just what doubt rises in my mind. [1887—1055] I'm telling you the best I know how about this story of the big anchor with the "Makee's" anchor. I think we used the big anchor because we used the surf line.

Q. It couldn't have been dropped without your knowledge?

A. That big anchor wouldn't have been dropped without my knowledge.

Q. Only with your orders?

A. Only with my orders.

Q. They would have no reason for sending that surf line aboard?

A. They would have no reason for sending that surf line aboard without any anchor being dropped and that surf line attached.

Q. You went back from that vessel with the plan outlined in your mind to drop the anchor that night?

A. That's what I intended to do.

Q. As far as you know, that's what you did, Captain Miller?

A. That's what I did and that's what I intended to do, because the captain and pilot the next morning didn't approve of that and wanted it astern.

Q. What was your conversation the next morning as to the position of the anchor. Was there anything in that conversation that can call to your mind whether or not you dropped the anchor?

A. Yes. The first thing when I dropped the anchor they had ordered that surf line let go. I think Captain Henry ordered it let go. I asked him what

(Testimony of Frederick C. Miller.)

he did that for, well, he didn't want any anchors and he wanted the ship itself. Macaulay was present at that interview. That's a certainty. I told him all right we'll take that away and I'll go right back to town with it.

Q. What was said between you about the position?

A. After we had this row and I wanted to come ashore they had a little talk pro and con and he said he didn't like the position of the anchor. I said, "If you don't like the position, name one that you like better."

Q. The anchor was down then at that time?

A. I'm under the impression that it was down. He said, "You pick up your anchor, then go and it astern, farther aft and [1888—1056] set right straight aft," and he pointed.

Q. He said, "You pick up your anchor?"

A. I think he said that. The boat was anchored—whether it was the big anchor or the other—the boat was anchored all night.

Q. You said it took possibly half an hour in the "Concord" to get your anchor out?

A. It would take that time to lay that anchor in the best place.

Q. You say it did take that long?

A. It took us longer. A good ship it would take a half an hour.

Q. To pull the anchor up?

A. To pull the anchor up.

Q. It wouldn't take that long to pull up the "Makee's" anchor?

(Testimony of Frederick C. Miller.)

A. Five minutes would pick up the "Makee's" anchor.

Q. And, as a matter of fact, to your best recollection, you did have to pick up that anchor?

A. That's the best of my recollection. The very best of it I think there is no doubt.

Q. What time did you go aboard the "Celtic Chief" that Wednesday? A. We went quite early.

Q. About what hour?

A. It was after daylight. I would say about three o'clock.

Q. And you didn't get your big anchor in position until nine? A. Until nine.

Q. So it must have been. You never got around there sooner than that?

A. I think so. I think there's no question about that.

Q. You say you saw your surf line thrown off on Tuesday night? A. I saw them let it go.

Q. You were in the "Makee"?

A. I was on the "Makee" looking at her with a pair of glasses.

Q. You saw her make fast?

A. I saw our boat with Captain Scott and six or eight kanakas take that line in, pass it over the ship's main deck of the "Celtic Chief" and saw a man take [1889—1057] the line and pull it in, and I thought that it was fast.

Q. Do you know it was fast?

A. I do know it was fast.

Q. How do you know that?

(Testimony of Frederick C. Miller.)

A. Because it was taken through the chock and stayed there.

Q. You couldn't see that it wasn't made fast to any bitts or anything of that sort?

A. I couldn't see that it was made fast.

Q. On account of the bulwarks?

A. The bulwarks would hide it.

Q. You couldn't make any attempt of looking through the chock?

A. You couldn't look over the rail. I couldn't see another man. I think five minutes afterwards it was let go and was let down in the water.

Recess.

Mr. OLSON.—Q. Captain Miller, is this, referring to that voucher which I asked you to try and find among your papers—will you state whether or not this is a true copy of the voucher which was given to you upon the settlement with Captain Medcalfe?

A. I don't remember that they gave me a voucher but I think it's highly probable that they had one.

Q. Do you admit that this is a true copy of the voucher that—

A. If it will help you in any way I'm *will* to admit it. I don't know; I think it likely it is.

Q. Will you admit that it is? If you do, then I'll relieve you of the necessity of finding the original.

A. I don't know that I've got the original and I don't want to admit anything of what I'm not sure, but it's highly probable. Suppose, on the other hand, I should say—

Q. I'm not asking you to swear that it is a true copy. I'm asking you as representing the Miller

(Testimony of Frederick C. Miller.)

Salvage Co. and not the witness on the stand, to admit that this is a true copy of the voucher.

A. I'm willing to admit that it's highly probable.
[1890—1058]

Mr. WEAVER.—We'll admit that it's a true copy.

Mr. OLSON.—Counsel for the Miller Salvage Co., Ltd., admit that this document is a true copy of the account which was referred to. I ask that it be admitted in evidence.

The COURT.—So ordered. Counsel for the Inter-Island Steam Navigation Co. is willing to have that come in?

Mr. WARREN.—I have no objection to its going in that way.

(Document received in evidence and marked Libelee's Exhibit # 4.)

Mr. WARREN.—Q. Referring to the surf line. I understand, Captain, on your direct testimony you said it was about—first, you said, "I saw that line made fast and I saw it let go myself." This is the fact, is it?

A. I saw it taken in. No; I'd like to qualify that. I couldn't see it fast to the bitts because I wasn't on the ship at that time. I saw them taking it aboard, hauling in slack enough to make fast on the bitts because the bitts was just forward of the chock, and then afterwards they let go of it. Of course, it dragged down in the water and Captain Scott went back and picked it up.

Q. Where was the "Mokolii" at that time?

A. The "Mokolii" was lying off near the "Makee." I think on the Ewa side of the "Makee."

(Testimony of Frederick C. Miller.)

Q. Which was right close up to the port quarter of the "Celtic Chief"?

A. Somewhere near there. She was on the port side.

Q. How large was the surf line?

A. The surf line, if I remember right, was four or five inches line. I think a four-inch line. I'm not sure.

Q. And that four or five inch line was taken through the chock?

A. Taken through the chock of the "Celtic Chief" and it was made fast because they admitted it the next morning.

Q. Don't you mean that your heaving line was thrown over? [1891—1059]

A. No, sir; the surf line, they admitted it themselves.

Q. Do you mean they could throw a four or five-inch line away?

A. They didn't throw it up over the rail. If that was the heaving line they threw it over the rail.

Q. What did you see?

A. I saw them—well, what I saw was this, Mr. Warren: I saw them haul that surf line in through the chock.

Q. As distinguished from the heaving line?

A. I don't remember of seeing any heaving line in connection with that matter at all.

Q. So there was no line thrown over the rail at all?

A. I say I didn't see any heaving line thrown over the rail.

Q. This four or five inches line?

(Testimony of Frederick C. Miller.)

A. I'm telling you my impression is that it was a four-inch line.

Q. But you didn't see it made fast?

A. I didn't see it made fast to the bitts because it would be practically impossible for me to see through those bulwarks, but as I stated they admitted it was fast.

Q. Who admitted? A. The captain admitted it.

Q. Who else was present?

A. The pilot was present at the time I asked him why he let go our surf line and Pilot Macaulay also admitted that?

A. Pilot Macaulay was present when I had this talk with the Captain. I didn't direct my conversation to the pilot. I directed it to the captain. I asked him why he had let our line go. Captain Scott had that same talk with him and came back to me and reported.

Q. Captain Scott reported to you—what did you do?

A. We waited until daylight next morning. He said he didn't want to anchor; he wanted lighters. He said he was *huhu* because I didn't come back with lighters and brought anchors and purchase tackle.
[1892—1060]

Q. You didn't come over again that night?

A. I didn't go again that night.

Q. You didn't even go over to him? A. No, sir.

Q. Nor held any conversation.

A. I held none with anybody on board the ship that night. I'd sent my boat over and my man with the line that they let go. I waited until morning.

(Testimony of Frederick C. Miller.)

Q. About how long a time was taken up by the interview next morning?

A. I suppose we was quarrelling there fifteen or twenty minutes.

Q. If you had done that quarrelling the night before you would have been that much ahead the next morning, wouldn't you?

A. If you want to know, I came pretty near taking the boat back to the Hackfeld wharf that night with all my gear; that's what I came pretty near doing.

Q. Did you yourself see that line thrown off?

A. I didn't see it thrown off, but I saw it cut out of the rail into the water.

Q. You saw it run out of the rail?

A. I saw it run out of the rail.

Q. Could you see who was there on the rail?

A. Some of the crew was standing down there by the waist of the ship.

Q. Now, who were leaning over the rail?

A. Some of the ship's crew.

Q. Was the captain there?

A. I don't remember seeing him.

Q. Could you make out any individual with your glasses?

A. I could have made out if he had been down on the main deck. He said he'd ordered it let go but didn't say he let go but said he ordered it let go.

Q. And you went aboard just after daylight on Wednesday morning?

A. Well, shortly after daylight. [1893—1061]

Q. Then after half an hour or so, fifteen or twenty minutes, you went back to the "James Makee" and

(Testimony of Frederick C. Miller.)

took up your anchor?

A. Yes; then we moved again and occupied the position which I indicated the other day. That was as near as we could between the—we had to work in between the “Intrepid” and the “Helene.” I’d lost a good deal of time.

Q. What time do you think it was daylight?

A. It must have been sunrise about six o’clock.

Q. You testified on direct that you waited until the following morning and just after daylight. Daylight, that would be six o’clock?

A. Somewhere around there.

Q. And you took about fifteen minutes, twenty minutes for that conversation?

A. I should think that was the extent of time, fifteen or twenty.

Q. How long do you think you were absent from the “Makee” that morning?

A. I don’t think I was absent from the “Makee”—I don’t think over a half an hour.

Q. Not over that? A. I may have been more.

Q. Probably less?

A. No, I don’t think. I’m giving you the best of my judgment. I think about half an hour. I don’t think it was less.

Q. So you would have got back to the “Makee” after visiting that ship, about half-past six or quarter to seven? A. I would say I was back by seven.

Q. And you got your anchor dropped by the “Intrepid” there by nine o’clock, about two hours.

A. Yes.

Q. Now, if you had had your big anchor on board

(Testimony of Frederick C. Miller.)

the "Makee" it wouldn't take two hours to get around there?

A. Yes, the time was lost in going in around between those two ships. We had a very narrow place to go in and we had two boats to handle; we had the "Mokolii" and we had the "James [1894—1062] Makee."

Q. How long do you think that would take, two hours?

A. We done it as quickly as we could. We didn't lose any time. I would say we took an hour and a half or two hours in moving around there. We had a good deal of maneuvering to do to get in there with that anchor aboard without damaging the "Intrepid" or the "Helene" or doing damage to one of our own boats. And we couldn't handle the "Mokolii" with the lines of the different boats.

Q. Now, as to the bottom of the sea in that vicinity, did you say there was no sand there?

A. I didn't see any, and I examined that bottom pretty carefully, because we lost the buoy of our anchor, and when we went back a couple of days to get that anchor, we had to examine that bottom to find our anchor.

Q. While the ship was ashore you couldn't see the bottom?

A. Standing on the ship's deck and looking down you couldn't see the bottom.

Q. Why not?

A. The motion of the water and her thumping was scratching up the coral and making the water white.

Q. You think that was coral and not sand?

(Testimony of Frederick C. Miller.)

A. Yes, I do.

Q. Isn't the coral in that vicinity—I mean sand—really crushed coral? A. That's what it is.

Q. But you say you could see lumps of coral and lava?

A. Yes, I could see lava rocks plainly and coral heads; there's absolutely no question about the formation of that bottom. I only gave our experience in finding my own anchor. Afterwards and since then I've been running up and down between here and Pearl Harbor and I've had considerable to do in towing for the United States Engineers. There are times when there is no winds when you can see right down to the bottom.

Q. Are you basing your testimony as to danger in this case, Captain, upon the condition of the bottom down there or over [1895—1063] down on the reef or reefs generally?

A. I'm basing my opinion as to danger to that ship upon the ocean's bottom there and in the whole of these Islands. The whole of these Islands is extremely dangerous.

Q. Are you prepared to compare this spot with other spots?

A. All reefs are dangerous. This isn't any more dangerous than other reefs of these Islands and it is extremely more dangerous than the shelving shores of our Atlantic Coast. These Islands are extremely dangerous Islands for a ship to go ashore on, the whole of it, the whole of these Islands.

Q. Isn't any coral reef about the same?

A. All coral reefs? No, I beg to differ with you,

(Testimony of Frederick C. Miller.)

for this reason: some coral reefs are simply all coral and no lava rock, but these Islands are not all coral. The larger portion of these shores that I've observed are interspersed with lava rocks and that makes it even more dangerous than a coral atoll would be.

Q. Then you consider danger from this particular reef?

A. Yes, I do. From this particular reef on this Island of Oahu, and the whole Islands of Oahu and any island that I have seen in the Hawaiian group on account of the lava rocks interspersed among the coral.

Q. But at this particular spot and this particular reef where the "Celtic Chief" was, you saw lava?

A. I saw lava here and lava rocks and our anchor was finally found under one.

Q. Now, referring to some of the testimony that you've given before, Captain, the tendency of the swell, on direct examination, the question was about what was the direction of this swell to which you answered they are northerly in the fore and aft line of the ship. What can you say of the tendency of this swell was to make any danger in the position of the "Celtic Chief"?

A. Yes, I do know the tendency of that swell was to heave her in on the beach. [1896—1064]

Q. You were also asked, "Can you say—what can you say of any other effect that this swell would have than forcing the 'Celtic Chief' forward as you have described?" to which you said, "None other—it could have but one effect on her and that was to pile her up." Then in the testimony next day you said,

(Testimony of Frederick C. Miller.)

“Now, one tendency of that ship and what actually occurred was that she went directly toward the beach, the swell sent her directly toward the beach.” You testified to that yesterday or day before?

A. What it would have been with the agency of the Inter-Island boats would be another proposition, your Honor.

Q. Now, in that testimony, Captain, do you mean to be understood as testifying that when you say that the only way the “Celtic Chief” moved was directly on the beach, that that was the only way she would have moved if no pulling agencies had been there?

A. Why, no, I do not. I don’t know as I have stated it, but I have tried to several times. The only tendency of that ship all the time she was on that reef was to go straight in further in, but there was three or four boats pulling on her nearly all the time as far as I can observe. I did observe they were pulling with a greater or less degree of power. There was power being exerted on her all the time. Put it that way. Now, that tendency, she would have a tendency to keep, furthermore, strongly aground, she would have broken open; there is no doubt about that.

Q. Now, on Wednesday noon, before you got your anchor-line taut, was the “Celtic Chief” still going on the reef? A. Before we got our—

Q. Before you got your anchor taut on Wednesday?

A. If I remember right, she had already—Wednesday? Yes, she had gone on the reef, but Wednesday

(Testimony of Frederick C. Miller.)

she had gone on from a length from half to three-quarters of her length.

Q. I mean on Wednesday?

A. On Wednesday. Yes, sir, she was still on the reef.

Q. Still going on? A. Yes, I think she did.

Q. You didn't take any observation to determine that? [1897—1065]

A. I'm not sure whether I did or not.

Q. Well, wouldn't you know?

A. I know that she went on. Yes, I could bet she went on Wednesday, I think, some too and I think we took bearings of her too.

Q. Did you take a bearing of her Tuesday morning when you left?

A. I took a bearing Tuesday morning and we took a bearing Monday morning before we left the dock. We took a bearing of that ship before we went aboard her. We took a bearing again Tuesday morning before we went to see the other bearings again.

Q. How much would you say she moved in on Wednesday?

A. She didn't go in much on Wednesday, Mr. Warren. That ship went in on the beach Monday and Monday night more than she did at any other time.

Q. Well, do you think that the cause of that would be traced in part to the fact that she was being lightered?

A. I think it was in part that and in part the swell was heavier on Monday and Monday night and on

(Testimony of Frederick C. Miller.)

Monday she didn't have outside help at all. I don't think the Inter-Island boats got there before, if I remember right, somewhere about eleven o'clock, ten or eleven o'clock.

Q. Might have been ten o'clock?

A. Might have been ten o'clock.

Q. Might have been before ten o'clock as far as you know?

A. They may have got there before ten, but, if I remember right, their lines weren't fast to her until somewhere about ten o'clock. I would say that as near as I can remember.

Q. Now, at noon on Wednesday, you said afternoon would be the next high water?

A. The next high water, if I remember right, was Thursday morning, about nine o'clock.

Q. That's high water large?

A. As near as my remembrance goes, yes. I'm not giving you this information from the files, looking over the morning's "Advertiser" and getting it from there. I hadn't seen that book. [1898—1066]

Q. I'd like to ask you, Captain, you know, you are familiar with the tide tables? A. Yes.

Q. As published by the Government printing office at Washington, Coast Geodetic Survey?

A. Yes, I'm familiar with them.

Q. Referring to pages tide table, will you give us the of high tide for December 8?

A. December the 8th?

Q. 1904, high water large? A. 1:28.

Q. A. M.? A. A. M.

Q. How many feet?

(Testimony of Frederick C. Miller.)

A. One foot five; one foot and a half about that, five-tenths.

Q. Above mean water? A. Above mean water.

Mr. WEAVER.—Mean low?

A. Mean low. I told you one o'clock. This book gives it later on Thursday. I was telling you I hadn't seen this book.

Q. I'm talking about Wednesday.

A. This says two o'clock.

Q. Thursday was about 1:28?

A. No, sir; Wednesday was 1:28; Thursday was two o'clock.

Q. 1:28 in the afternoon?

A. 1:28 in the afternoon.

Q. That would be high water large or high water small? A. That would be high water small.

Q. And high water large would fall at what time, Thursday morning?

A. At two o'clock Thursday morning.

Q. According to that table?

A. According to this table, that would be two-tenths higher than the previous high water.

Q. Two-tenths of a foot?

A. Two-tenths of a foot.

Q. On Wednesday it was one foot and five-tenths and Thursday seven-tenths, isn't that the way that you read Thursday afternoon?

A. Thursday, two P. M.

Q. What about Thursday morning early?

A. Thursday morning, that would be 1:12.

Q. That was the high tide more close to the time the "Celtic Chief" came off?

(Testimony of Frederick C. Miller.)

A. Yes, sir. [1899—1067]

Q. It was high water small at two o'clock on Thursday? A. Yes.

Q. And it was high water large at one-twelve on Thursday morning?

A. One-twelve Thursday morning.

Q. And Wednesday afternoon it was high water small at— A. One twenty-eight.

Q. One twenty-eight?

A. Yes, and high water at 1:30, 12:30.

Mr. OLSON.—In the morning?

A. In the morning.

Mr. WEAVER.—May I ask a question. Here (pointing to Wednesday, the 8th), the column marked 1:28 and under that one small five; what does that mean? When you find 1:28 is it midnight or midday? A. Midday.

Q. Then the next in the column is eight; that must be—

A. Eight o'clock at night and then 12:30 is at night and so on.

Mr. WARREN.—Q. You saw the "Intrepid's" line on Monday?

A. I saw the "Intrepid's" line on Monday.

Q. What was the condition of her line then?

A. It was taut and she was pulling on it.

Q. How taut, as far as you could observe it?

A. Well, it was—I think that they were pulling as hard as they could.

Q. Well, as to the line?

A. The line was taut. When they cut it that was a mean piece of business to—

(Testimony of Frederick C. Miller.)

Mr. OLSON.—I ask that be stricken from the record.

The COURT.—It will be.

Mr. WARREN.—You've said that at the time of the conference with the "Arcona," between the "Arcona" officers and the "Celtic Chief" officers, Captain Haglund went away but you don't know where he went. Did you see him go?

A. I saw him go over the side. I don't know how far he went over the ship's side.

Q. You didn't see him again that day, until you came [1900—1068] out at the second bump?

A. I don't remember of seeing Captain Haglund again until I came out at the second bump and he was on deck. As far as I know, I never saw him any more from the time he went over the ship's side to the time of the second bump when he came on deck.

Q. Did you have any idea of where he was at the time of the first bump? A. No.

Q. For all you know he may have been aboard?

A. He may have been aboard.

Q. He was not among those down in the cabin?

A. He was not with us in the cabin, that's sure.

Q. He furnished the food, the lunch himself?

A. Well, they told me he furnished the food and I guess he did because that ship never produced it.

Q. When you came out between the bumps you didn't notice him? A. No.

Q. You wanted to get back as soon as you could?

A. I didn't stay on deck very long.

Q. Where did you go when you came out that time?

(Testimony of Frederick C. Miller.)

A. Came out on the main deck. I think I went up on the poop. I'm not sure. I know I came up on the main deck.

Q. You know you came up on the main deck?

A. I know I did.

Q. I think you said that there was possibly an hour between the bumps, did you not?

A. I said possibly there was.

Q. Well, you stated so on direct examination?

A. I think I did. If I didn't I say so now.

Q. After that first bump did you get up right away or did you sit there?

A. I didn't get right up but after the first bump I stayed there a few minutes until they got quiet again.

Q. How long do you think you stayed there before you left to come out and investigate?

A. Not long.

Q. Ten minutes? A. Possibly. [1901—1069]

Q. Now, if you're told, Captain, that Captain Haglund was on the poop at the time of that first bump; would you be prepared to say he was not?

A. No, I wouldn't.

Q. He might have been there?

A. Sure, he might.

Q. You went up on the poop?

A. I'm not sure.

Q. If you had gone up on the poop don't you think you would have seen him?

A. I might and might not. It was a dark night.

Q. The "Arcona's" search-light was playing?

A. Yes. I say I didn't see Captain Haglund but

(Testimony of Frederick C. Miller.)

there was a man, many men on the poop.

Q. They were not up on the poop?

A. Some of them on the poop.

Q. Of those men down on the poop they would have been off the ship, weren't they?

A. No, they weren't. I had some of them up and down.

Q. Just a few kept?

A. A few to have up there.

Q. So that there couldn't have been a crowd in which he could have been hidden?

A. I didn't see him. He may have been there.

Q. Now, you say that you all knew of that first bump? A. Our men did.

Q. How do you know that?

A. Well, because the kanakas began to shout and began to talk.

Q. You heard them down the cabin?

A. I could hear them in the cabin.

Q. You could hear them shouting up there? They weren't shouting out loud enough for you to hear them? A. Loud enough for me to hear it.

Q. Don't you think that the captain of the ship and Captain Macaulay felt that there was something doing?

A. The captain of the ship did. He jumped out of his chair and went out. I know he felt something was doing.

Q. A bump violent enough to direct his attention?

A. That's what it was. [1902—1070]

Q. And when you and the others ran out on deck after the second bump that line was already straight

(Testimony of Frederick C. Miller.)

up and down at the stern of the "Celtic Chief"?

A. Practically straight up and down.

Q. And the "Celtic Chief" was afloat?

A. The "Celtic Chief" was afloat.

Q. And about halfway to the "Arcona"?

A. Yes, the distance was little more than halfway, as near as I could judge.

Q. Did that happen by the time you could get on deck? A. Yes.

Q. And in that interval of fifteen or twenty minutes or half an hour immediately prior to the second bump, you don't know really what was going on on the deck of the "Celtic Chief"?

A. I don't expect that our men was pulling.

Q. Or what the other steamers were doing?

A. I don't know what the other steamers were doing while I was in the cabin.

Q. They may have been pulling hard, for all you know? A. They may have been pulling hard.

Q. As far as your knowledge goes—

A. While I was in that ship's cabin they may have been pulling hard.

Q. Now, when you got outside and found the "Celtic Chief" afloat and away, as you say, more than halfway to the "Arcona," what—were the men cutting the Inter-Island steamer lines?

A. No, they weren't cutting them then. The orders were given afterwards. There was no lines cut—no lines let go when I first came out of the cabin.

Q. All the vessels were fast?

A. Every boat was fast when we first came out of that cabin.

(Testimony of Frederick C. Miller.)

Q. And their lines were fast? [1903—1071]

A. When we first came out the lines were slack except the "Mikahala's," as she was pulling.

Q. What did you observe about the "Arcona"?

A. I didn't see her lines as well as I saw the other lines.

Q. The other lines, you say, were not pulling?

A. The other lines were slack. The "Arcona's" lines were slack. We couldn't see them at all over the stern.

Q. Well, did you observe the "Arcona" lines with any particularity?

A. I observed the "Arcona's" lines particularly at her stern, slack down in the water. I couldn't say how far down in the water they were.

Q. Why did you say the "Mikahala" was pulling, still pulling?

A. Because I think it was the "Mikahala" that saved the "Arcona."

Q. On direct testimony you were asked what vessel was pulling the "Celtic Chief" away and were asked the specific question, "Was any other vessel pulling her away?" to which you replied, "I think the 'Mikahala.' I'm not certain. I think the 'Mikahala' possibly saved the 'Arcona' from a bump." Now, did you say that? What do you mean by that?

A. I mean by that that the "Helene" and the "Likelike" seemed to be no use and they wanted to cut her, if I remember right, cut her adrift first and get out of the way, and I think, if I remember right, the "Mikahala" held on to her lines. They couldn't let go of her lines and had to shift her.

(Testimony of Frederick C. Miller.)

Q. What do you mean by saving the "Arcona" from a bump?

A. Pulled her over on the side of the "Arcona" so that in case the "Celtic Chief" kept on going, that she'd go by her right over her quarter and not come straight over in her.

Q. In what direction?

A. You see, the "Celtic Chief's" stern was coming directly astern for the "Arcona," stern and stern, and I think the "Mikahala" pulled her over that side; depends which side you were standing on whether it was port or starboard. Ewa side—I mean Waikiki side.

Q. In what direction was the "Mikahala" headed?

A. The "Mikahala" was headed approximately towards Diamond [1904—1072] Head. She was headed towards starboard quarter of the "Celtic Chief" and she would have a tendency to pull her over that way.

Q. When did you observe that, immediately on coming out of the cabin?

A. No, not immediately, because the first thing I observed on coming out of the cabin was my own lines, and then called the pilot's attention to the signal, the range lights, and to the distance that had been taken up, so that I couldn't see everything all at once and I didn't see anything at once.

Q. How much time elapsed, do you think, from the time you felt that second bump until you got on the deck?

A. From the time we felt that second bump it wasn't ten seconds—say, fifteen; just as quick as we could rush up.

(Testimony of Frederick C. Miller.)

Q. What Inter-Island lines were cut first, if you know?

A. As near as I can remember, the only line of the Inter-Island that was cut was the "Likelike."

Q. And he let go what lines first?

A. I don't know, but—I don't know. I think it was the "Helene's" and "Likelike's." I don't know. There was men working on both sides and lines practically at the same time.

Q. How many lines did the "Mikahala" have?

A. She had one eight inch, that I'm sure of, a new eight-inch line. I judge it to be an eight inch; but I'm not sure that she had a second line. I wouldn't say now for a certainty, but I'm giving you my impression. The "Mikahala" had two lines. I think they reinforced their line with another one.

Q. When you said on direct testimony that the "Arcona" came as near being bumped as any ship ever did, will you state why you made that statement? How near, as a matter of fact, did the "Celtic Chief" approach the "Arcona"?

A. The "Celtic Chief" approached the "Arcona" within about once her length.

Q. Once of the "Celtic Chief's" length? [1905—1073]

A. About once of the "Celtic Chief's" length.

Q. And then what?

A. Then she was pulled off a little to one side. She seemed to leap over. You see, they started ahead then on the "Arcona," I think, and I think all the boats started pulling then when she once came off.

Q. What was it that increased the distance again

(Testimony of Frederick C. Miller.)

between the "Arcona" and the "Celtic Chief"?

A. When that second red light went up I think they all started pulling.

Q. Would that tend to increase the distance or decrease it? A. Decrease it.

Q. You think she came, at the closest, about her own length? A. About her own length.

Q. Was she still moving toward the "Arcona" when the "Mikahala" started pulling her sideways?

A. I don't think, from the time that she started off she lost her headway until she nearly stopped going.

Q. If the "Mikahala" had not pulled her aside, do you think the headway of the "Celtic Chief" was enough to cause her to bump into the "Arcona"?

A. I'll tell you what I think, Mr. Warren: if the "Mikahala" and the "Helene" hadn't kept pulling after our anchor was down there was nothing to have stopped the "Arcona" from going into her, because her headway when she came off that reef never seemed to stop. In other words, when she started to come off she come off a little ways and stopped—she seemed to keep on coming. When the ship came off the reef there was nothing could stop or oppose her motion between the first and second bumps. What I mean is, that she moved gradually and then suddenly.

Q. From the time of the first bump was there a little bump? A. I didn't see that.

Q. If you were in the cabin couldn't you feel her moving—along the bottom? [1906—1074]

A. No, we only felt that outside as we went out on deck. We went down in the cabin again and all

1658 *The British Ship "Celtic Chief" et al. vs.*

(Testimony of Frederick C. Miller.)

that I heard in that cabin was our men heaving on that purchase.

Q. You said, "We went out on deck." Who do you mean by "we"? A. All three of us.

Q. I thought you were talking about the first bump?

A. Oh, no; the first bump we didn't come out of the cabin at all.

Q. From the conditions you observed the "Celtic Chief" coming off, do you think there was any danger of a collision but for the interference of the "Mikalaha"?

A. We was in position to bump the stern of the "Arcona."

Q. Never mind that part. Was there any danger?

A. Danger?

Q. Of a collision?

A. Well, it wouldn't have been a bad one, but she would have just bumped her a little bit.

The COURT.—That really doesn't answer the question.

A. There was a danger of a bad mix-up by all of the Inter-Island boats.

Q. How mix-up?

A. You see, the Inter-Island boats were fast to her.

Q. The Inter-Island boats were cast loose?

A. As soon as they could, but you couldn't let loose instantly. It took some time to get away. It took some time for the "Arcona" to get out of the way. It took her longer than the Inter-Island boats.

Q. Now, in your direct testimony you referred to the manoeuvres of the "Arcona" as *opera buffet* and

(Testimony of Frederick C. Miller.)

said in explanation of that term, "She came near being bumped by the stern and we got them there and they couldn't take her after we got her afloat, and they had to turn her over to Captain Haglund to bring her in to an anchorage." What do you mean by "they couldn't take her—the 'Arcona' "?
[1907—1075]

A. After we got well out to sea, I couldn't tell you how far but I should say three or four miles.

Q. Three or four miles?

A. I should say three miles; yes. I thought she was heading for Molokai.

Q. What do you mean by the "Arcona" couldn't take her?

A. I mean the "Arcona" couldn't take her into an anchorage, didn't want to.

Q. How do you know that?

A. I know that for this reason. She had her lines fast on to the stern and she couldn't steer with that ship fast on the stern, and the commanding officer or one of the other officers wanted some other boat to bring her into an anchorage.

Q. You heard that? A. I heard that.

Q. Out at sea that night?

A. I heard that that night on the deck.

Q. How did the "Arcona" tow? How many lines? A. The "Arcona"?

Q. Yes, in taking her out to sea how many lines did she have on the "Celtic Chief" when she towed her out?

A. She had two lines and then when they agreed to turn her over to Captain Haglund she let go first

(Testimony of Frederick C. Miller.)

one and then the other.

Q. Now, in proceeding out to sea in what manner did the "Celtic Chief" pull the "Arcona"?

A. Well, goodness knows what manner. She pulled in a bad manner because the "Arcona" had these lines fastened on the after bitts and I judge from the course she took they couldn't steer and they couldn't turn. No vessel can tow another vessel and make a turn with lines fast on the after end.

Q. What would be the effect, as a matter of navigation, in the manipulation of vessels at sea when one vessel is pulling another vessel by two lines, as those were, as to strain on one line or the other?

A. As she'd turn there'd be naturally more strain on the outside line. [1908—1076]

Q. Did they make any turns going out to sea that night?

A. Not any sharp turns. She was headed out not towards Molokai but straight over to seaward. They were going seaward and they got mixed up there with their lines in towing and to get back they turned her over, the "Likelike" took her.

Q. What about the relative strain of these lines when the manoeuver was going on—would you say one was tauter than the other?

A. They naturally would be. You couldn't have both them lines, both the same strain, because as they'd turn this line would have a bigger strain than the other one.

Q. What kind of a motion did the "Celtic Chief" have in pulling the "Arcona" out?

A. As soon as the "Arcona" had on her two lines

(Testimony of Frederick C. Miller.)

fast the "Celtic Chief" stayed behind her.

Q. I mean as to her progress through the water. How fast? What kind of a course did she describe through the water—straight course or otherwise?

A. I don't know. I didn't observe that very carefully.

Q. You were on board the "Celtic Chief"?

A. I was on board the "Celtic Chief" on the after deck, poop deck. I know there was some difficulty about her lines. There was a conference, Captain Haglund and the pilot and Captain Henry, to let one of the Inter-Island boats take hold of the "Celtic Chief" and bring her into an anchorage. They didn't want to try it.

Q. You heard that arrangement made out there at sea?

A. I heard that arrangement made out there at sea between those men.

Q. What did you hear from the "Arcona" as to whether or not they could take the vessel?

A. Well, they didn't want to do it.

Q. What did they say? In substance, if you can't remember.

A. I wouldn't like to state because I wouldn't like to trust my memory that far. I know they didn't want to take [1909—1077] her and wanted to get rid of her.

Q. Do you know whether or not any request was made for the Inter-Island to take her?

A. I do that because Haglund wouldn't touch her until they asked him to. There was some little—I can't think of just the words. Some little differ-

(Testimony of Frederick C. Miller.)

ence about the thing. I think Haglund was sticking out for the officer of the "Arcona" to take her but the Captain of the "Celtic Chief" asked him. I know he objected to it until they asked him to.

Q. Now, the ship's winch. You said you used that during the afternoon for hauling your tackle taut?

A. Yes.

Q. And you used that after dark?

A. I used it once after dark, Mr. Warren.

Q. About what time?

A. I think about 8 o'clock, when we wanted to make a good big heave. I think it was about that time that I went up to the donkey-man and gave him a few dollars to get the steam up.

Q. You wanted to make a special pull?

A. Well, I wanted to save my men, if I could, for the last stretch and I didn't want to tire them out early in the evening. I wanted to have them back about ten or eleven o'clock.

Q. They had been straining all afternoon?

A. The men had to work all the time.

Q. Wasn't part of the reason that you wanted them, that you considered power of the winch a little greater than the power of the sixteen men?

A. On the contrary, I think we had more power on the capstan with our men on the capstan bars and the purchase than we had with the ship's winch and donkey.

Q. Then why did you prefer to use the weaker power?

A. Because with the capstan forward I could have busted our lines. With the steam winch we

(Testimony of Frederick C. Miller.)

could heave all that we wanted to pull with the lines and still not break them.

Q. You could have done that with the men just as well? [1910—1078]

A. We could do that but I wanted to save my men.

Q. How long did you use the winch?

A. I don't think we used that winch before and after dark. I don't think we used that steam winch over an hour at the utmost.

Q. Consecutively? An hour without interruption?

A. I don't recall all the time. We weren't heaving all the time. As a little swell would come we'd take it.

Q. You really tried to get that winch every time you could? A. That night?

Q. All the time.

A. During the daytime.

Q. And at night also?

A. We didn't care so much about it at night.

Q. So you didn't try to use the winch after eight-thirty?

A. I said about eight o'clock we got the winch and used it for an hour and then they told us we couldn't use it until the Inter-Island had stopped lightering. The Inter-Island stopped lightering at eight-thirty—at eight-thirty Wednesday night.

Q. Sure of that?

A. As near as I can remember; yes.

Q. Isn't it a fact that they were unloading cargo up to five minutes before the ship came off?

A. No, not to my knowledge.

(Testimony of Frederick C. Miller.)

Q. Weren't you down in the cabin?

A. I was down in the cabin.

Q. Don't you know that they brought the barge out there with a donkey on it and used that right up to a few minutes before the ship came off?

A. No, I don't.

Q. Wasn't the winch taken away from you?

A. During the day. They wasn't working the ship up to five minutes before she came off.

Q. Half an hour?

A. No, not within an hour—not within two hours.

Q. What is your judgment as to the time they were there [1911—1079] last, lightering?

A. The last lightering, to the best of my judgment, that they took out of that ship was about half-past eight or nine o'clock.

Q. You'll say nine, at the latest?

A. Nine at the latest.

Q. And you'll say they didn't do any lightering after nine?

A. To the best of my judgment they never took a bag of that cargo after nine o'clock.

Q. So you don't believe, though the Inter-Island were not using that winch, you didn't make any effort to get it after nine o'clock but one time?

A. We didn't want it after nine o'clock.

Q. And you didn't use it?

A. I don't think we use it after nine o'clock.

Q. And if the Inter-Island had been lightering—

A. They were not taking out of the after hatch and they had another hoisting engine alongside.